

COMMONWEALTH OF MASSACHUSETTS

TOWN OF NANTUCKET



WARRANT FOR

2010 ANNUAL TOWN MEETING
Nantucket High School
April 5, 2010 - 6:00 pm

AND

ANNUAL TOWN ELECTION
Nantucket High School
April 13, 2010
7:00 am - 8:00 pm

**Town of Nantucket
16 Broad Street
Nantucket, MA 02554
(508) 228-7255
www.nantucket-ma.gov**

To the Constables of the Town of Nantucket:

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Nantucket qualified to vote in Town affairs, to meet and assemble themselves at the Nantucket High School Auditorium at 10 Surfside Road in said Nantucket, on

**MONDAY, APRIL 5, 2010 AT 6:00 PM,
THEN AND THERE TO ACT ON THE ARTICLES
CONTAINED WITH THE ENCLOSED WARRANT:**

**ARTICLE 1
(Receipt of Reports)**

To receive the reports of various departments and committees as printed in the Fiscal Year 2009 Annual Town Report or as may come before this meeting.

(Board of Selectmen)

**ARTICLE 2
(Appropriation: Unpaid Bills)**

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute or transfer from available funds for the payment, pursuant to Chapter 44, section 64 of the Massachusetts General Laws, of unpaid bills from previous fiscal years, including any bills now on overdraft.

(Board of Selectmen)

**ARTICLE 3
(Appropriation: Prior Year Articles)**

To see what sums the Town will vote to appropriate and transfer from available funds previously appropriated pursuant to Articles voted in prior years.

(Board of Selectmen)

**ARTICLE 4
(Revolving Accounts: Annual Authorization)**

To see what revolving accounts the Town may vote to authorize or reauthorize pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws for fiscal year 2011.

(Board of Selectmen)

ARTICLE 5

(Appropriation: Reserve Fund)

To see what sum the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of establishing a Reserve Fund pursuant to Chapter 40, section 6 of the Massachusetts General Laws, to provide for the extraordinary and unforeseen expenditures which may arise during fiscal year 2011; said sum not to exceed five (5) percent of the fiscal year 2010 tax levy.

(Board of Selectmen)

ARTICLE 6

(Fiscal Year 2010 Budget Transfers)

To see what sums the Town will vote to transfer into various line items of the fiscal year 2010 operating budget from other line items of said budget and from other available funds.

(Board of Selectmen)

ARTICLE 7

(Personnel Compensation Plans for Fiscal Year 2011)

To see if the Town will vote to adopt the following Compensation Plans for Fiscal Year 2011:

Schedule A -- Miscellaneous Compensation Schedule

Abatement Advisory Committee (yearly per member)	\$600.00
Americans with Disabilities Act Facilitator (hourly)	15.00
Building Inspector, Assistant (hourly)	30.00
Dietician/Our Island Home (hourly)	33.00
Election Warden (hourly)	20.00
Election Worker (hourly)	15.00
EMT, Call (per hour)	15.00
Fire Captain, Call (yearly)	150.00
Fire Fighter, Call (per hour)	15.00
Fire Lieutenant, Call (yearly)	125.00
Fire Chief, Second Deputy (yearly)	5,000.00
Fire Chief, Third Deputy (yearly)	5,000.00
Plumbing Inspector, Assistant (hourly)	30.00
Registrar of Voters (yearly)	600.00
Registrar, Temporary Assistant (hourly)	10.00
Seasonal Shellfish Warden(s) (yearly)	300.00
Teen Center Staff (hourly)	11.00
Teen Center Staff/Second Year (hourly)	12.00
Temporary Employee	various rates

	of pay
Wiring Inspector, Assistant (hourly)	30.00
Veterans' Agent (hourly)	15.00

*Schedule B -- Seasonal Employee Compensation Schedule
(Spring, Summer, Fall, Winter/Effective April 15, 2010- April 14, 2011)*

Compensation Level	Start	Second Season	Third Season	Fourth Season
A-Hourly*	\$13.00	\$14.00	\$15.00	\$16.00
B-Hourly*	\$13.50	\$14.50	\$15.50	\$16.50
C-Hourly*	\$14.50	\$15.50	\$16.50	\$17.50
D-Hourly*	\$15.00	\$16.00	\$17.00	\$18.00
E-Hourly*	\$17.00	\$17.50	\$18.00	\$19.00

*An employee assigned supervisory responsibilities shall be placed in the next higher category.

A: Dock Attendant, Information Aide, Matron

B: Swimming Instructor, Arts & Crafts Instructor, Seasonal Health Assistant, Shellfish Warden, Endangered Species Monitor, Parking Control Officer, Laborer (Public Works)

C: Endangered Species Monitor Supervisor, Summer Recreation Coordinator, Dock Worker

D: Seasonal Firefighter/EMT, Community Service Officer, Lifeguard, Tennis Attendant (Park & Recreation), Laborer (Park & Recreation)

E. Lifeguard Supervisor, Madaket Harbormaster, Seasonal Maintenance Supervisor (Park & Recreation); Tennis Instructor (Park & Recreation), Swimming Instructor (Park & Recreation)

Schedule C -- Scallop Season Compensation Schedule

\$35.00/day to be paid to the full-time permanent shellfish warden(s) when scalloping activity is taking place.

*Schedule D -- Compensation Schedule for Elected Officials**

Moderator	\$150 per year
Selectman, Chair	\$5,000/per year
Selectmen	\$3,500/per year
Town Clerk	\$86,460

**Other than establishing the salary pursuant to MGL c. 41, s. 108, these positions are excluded from the Personnel Bylaw of the Town.*

(Board of Selectmen)

ARTICLE 8

(Appropriation: Fiscal Year 2011 General Fund Operating Budget)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of supporting the offices, departments, boards and commissions of the Town of Nantucket for Fiscal Year 2011.

(Board of Selectmen)

ARTICLE 9

(Appropriation: Health and Human Services)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the Council for Human Services to be used by the Council to contract with various health and human services, not-for-profit corporations to provide for the health, safety and welfare of the inhabitants of the Town of Nantucket; further, that all such sums be expended on the condition that contracts be executed by and between the Board of Selectmen and the respective private, not-for-profit agency for Fiscal Year 2011, which contracts shall stipulate mutually agreed upon terms and conditions.

(Board of Selectmen)

ARTICLE 10

(Appropriation: General Fund Capital Expenditures)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute or transfer from available funds, for the purposes of capital expenditures for Fiscal Year 2011 for the offices, departments, boards and commissions of the Town of Nantucket.

(Board of Selectmen)

ARTICLE 11

(Acceptance of Massachusetts General Law to Establish Separate Enterprise Fund for Our Island Home)

To see if the Town will vote to accept the provisions of G. L. Ch. 44, s. 53F1/2 to establish, beginning July 1, 2010 and continuing thereafter, a separate Our Island Home Enterprise Fund in the treasury of the Town for the Town-operated health care facility known as Our Island Home, into which Fund shall be deposited all receipts, revenues and funds from any source derived from all activities of Our Island Home, which Fund shall be applied pursuant to the processes described in said G. L. Ch. 44, s. 53F1/2 to pay for some or all of the expenses of operating, maintaining, and improving Our Island Home, all under the jurisdiction of the Town Manager and Board of Selectmen in accordance with the Charter of the Town of Nantucket, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 12

(Appropriation: Enterprise Funds Operations)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the operation of the Enterprise Funds of the Town of Nantucket for Fiscal Year 2011, out of anticipated revenues of the designated funds, for the purposes set forth above.

(Board of Selectmen for the Various Departments Indicated)

ARTICLE 13

(Appropriation: Enterprise Funds Capital Expenditures)

To see what sums the Town will vote to appropriate from the sources indicated below, for the purposes of capital expenditures in Fiscal Year 2011 for the Enterprise Funds established under the jurisdiction of the Town of Nantucket.

(Board of Selectmen for the Various Departments Indicated)

ARTICLE 14

(Enterprise Funds: Fiscal Year 2010 Budget Transfers)

To see what sums the Town will vote to transfer into various line items of Fiscal Year 2010 Enterprise Fund operating budgets from other line items of said budgets and/or from Enterprise Surplus Reserve Funds.

(Board of Selectmen)

ARTICLE 15

(Appropriation: FY 2010 Police and Fire Special Detail Fund)

To see if the Town will vote to raise and appropriate, borrow pursuant to any applicable statute, or transfer from any line item of the FY 2010 operating budget voted pursuant to Article 8 of the 2009 Annual Town Meeting, or from any other available funds, to fund the Police and Fire Special Detail Fund to be used for the purposes for which the fund was established pursuant to Chapter 44, Section 53C of the General Laws of the Commonwealth; or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 16

(Appropriation: Waterways Improvement Fund)

To see what sum the Town will vote to appropriate from the revenue received under subsection (i) of section 2 of Chapter 60B and under section 10A of Chapter 91 and sums received from the Commonwealth or Federal Government for purposes established by M.G.L. Chapter 40 section 5G including but not limited to (1) maintenance , dredging, cleaning and improvement of harbors, inland waters and great ponds, (2) the public access thereto, (3) the

breakwaters, retaining walls, piers, wharves and moorings thereof, and (4) law enforcement and fire prevention in the Town and County of Nantucket, and any other purpose allowed by applicable law, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 17

(Appropriation: County Assessment)

To see if the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, to pay the County of Nantucket such assessment as is required for Fiscal Year 2011, and to authorize the expenditure of these funds for County purposes, all in accordance with the General Laws and in accordance with the County Charter (Chapter 290, Acts of 1996), the sum of One Hundred Thousand Dollars (\$100,000); and, to take any other action related thereto.

(Board of Selectmen/County Commissioners)

ARTICLE 18

(Appropriation: Finalizing Fiscal Year 2011 County Budget)

To see if the Town will vote to overturn any denial of approval by the Nantucket County Review Committee, of any item of the County budget for Fiscal Year 2011 by appropriating a sum of money for such County budget and authorizing the expenditure of estimated County revenues, County reserve funds, County deed excise fees or other available County funds including the Town assessment for County purposes; further, to see if the Town will vote to overturn any denial by the Nantucket County Review Committee of the establishment of a County Reserve Fund, from which transfers may be made to meet extraordinary or unforeseen expenditures with the approval of the County Commissioners acting as the County Advisory Board Executive Committee within the meaning of c. 35, s. 32 of the General Laws of the Commonwealth.

(Board of Selectmen/County Commissioners)

ARTICLE 19

(Rescind Unused Borrowing Authority)

To see what action the Town will vote to amend, appropriate or reappropriate, transfer, modify, repeal or rescind unused borrowing authority authorized by previous town meetings, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 20

(Appropriation: Ferry Embarkation Fee)

To see what sum the Town will vote to appropriate from the proceeds of the ferry embarkation fee established by Chapter 46, section 129 of the Acts of 2003 as amended, for the purposes of mitigating the impacts of ferry service on the Town and County of Nantucket, including but not limited to provision of harbor services, public safety protection, emergency services, infrastructure improvements within and around Nantucket Harbor, and professional services pertaining to the potential use or reuse of land, buildings and infrastructure in the vicinity of Nantucket Harbor, and any other purpose allowed by applicable law, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 21

(Appropriation: Collective Bargaining Agreement/Our Island Home)

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute, a sum of money to fund the cost items for Fiscal Year 2011 in a collective bargaining contract between the Town of Nantucket (represented by the Board of Selectmen) and Our Island Home union employees (represented by the Service Employees Union International, Local 1199) in accordance with Chapter 150E of the General Laws of the Commonwealth, and to amend the Town's classification and compensation plan accordingly to reflect such contract, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 22

(Appropriation: Collective Bargaining Agreement/Fire)

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute, a sum of money to fund the cost items for Fiscal Year 2009 in a collective bargaining contract between the Town of Nantucket (represented by the Board of Selectmen) and the Fire Department union employees (represented by the Nantucket Professional Firefighters Local 2509) in accordance with Chapter 150E of the General Laws of the Commonwealth, and to amend the Town's classification and compensation plan accordingly to reflect such contract, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 23

(Appropriation: Collective Bargaining Agreement/Airport)

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute, a sum of money to fund the cost items for Fiscal Year 2011 in a collective bargaining contract between the Town of Nantucket (represented by the Airport Commission) and Airport union employees (represented by the Massachusetts

Laborer's District Council of the Nantucket Memorial Airport Employees of the Laborer's International Union of North America, Local 1060) in accordance with Chapter 150E of the General Laws of the Commonwealth, and to amend the Town's classification and compensation plan accordingly to reflect such contract, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 24

(Appropriation: Collective Bargaining Agreement/Wannacomet Water)

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute, a sum of money to fund the cost items for Fiscal Year 2011 in a collective bargaining contract between the Town of Nantucket (represented by the Nantucket Water Commission) and Wannacomet Water union employees (represented by the Utility Workers of America, AFL-CIO, Local Union 359) in accordance with Chapter 150E of the General Laws of the Commonwealth, and to amend the Town's classification and compensation plan accordingly to reflect such contract, or to take any other action related thereto.

(Board of Selectmen)

ARTICLE 25

(Fiscal Year 2011 Budget Transfers: Community Preservation Committee)

To see what sums the Town will vote to transfer into the Community Preservation Committee reserved and unreserved fund balances to turn back the unspent remainder of projects approved in prior fiscal years so that it will be available for future appropriations.

FROM	TO	AMOUNT
Article 27 ATM 2005	Fiscal Year 2011	\$2.96
Nantucket Parks and Recreation Commission Children's Beach Playground	Community Preservation Committee Open Space Reserved fund balance	
Article 27 ATM 2005	Fiscal Year 2011	\$1,724.72
Nantucket Parks and Recreation Commission Jetties Beach Playground	Community Preservation Committee Open Space Reserved fund balance	
Article 22 ATM 2007	Fiscal Year 2011	\$62.00
Nantucket Parks and Recreation Commission	Community Preservation Committee	

Tom Never's Swing set	Open space Reserved fund balance	
Total transfers to Open space Reserved fund balance		\$1,789.68
Article 21 ATM 2004	Fiscal Year 2011	\$100,000
Nantucket Boys and Girls Club Employee Housing Renovation and addition	Community Preservation Committee Affordable housing Reserved fund balance	
Article 21 ATM 2004	Fiscal Year 2011	\$115,000
Nantucket Housing Office Funding down payment assistance and gap financing	Community Preservation Fund Affordable housing Reserved fund balance	
Article 24 ATM 2006	Fiscal Year 2011	\$200,000
Sherburne Commons Inc Assisted and independent Living community	Community Preservation Fund Affordable Housing Reserved fund balance	
Article 26 ATM 2008	Fiscal Year 2011	\$31,818.91
Nantucket Planning and Economic Development Commission, funding for Housing planner/specialist	Community Preservation Fund Affordable housing Reserved fund balance	
Total Transfers to Affordable Housing Reserved fund balance		\$446,818.91

(Kenneth Beaugrand, et al)

ARTICLE 26

(Appropriation: Community Preservation Committee)

To see if the Town will vote to act on the report of the Community Preservation Committee on the Fiscal Year 2011 Community Preservation Budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund annual revenues or available funds for the administrative and operating expenses of the Community Preservation Committee, the undertaking of Community Preservation Projects and all other necessary and proper expenses for the year.

Purpose	Amount
Historic Preservation	

Nantucket Fireman's Association Hose Cart House Restoration	\$25,000
South Church Preservation Fund Restoration of the Plaster and Decorative painting Phase 3	\$375,000
St. Paul's Church Restoration of Stained Glass windows Phase 2	\$77,900
Nantucket Historical Association Preserving oral histories by digitization Phase 2	\$50,000
Town Clerk's Records Restoration Preservation and restoration of town records Final phase	\$79,900
African Meeting House Restoration of interior of structure and historic windows	\$52,800
Town of Nantucket, Department of Public Works Restoration of granite posts and fence at the Civil War monument	\$60,000
Artist's Association of Nantucket Restoration, cleaning and framing of works in the permanent Collection	\$5,400
Sub-total	\$726,000
<u>Community Housing</u>	
Housing Nantucket Scattered site house recycling program	\$150,000
Interfaith Council Housing and rental assistance program	\$95,000
Habitat for Humanity Nantucket, Inc. Construct new Habitat for Humanity house	\$250,000
Town of Nantucket, Affordable Housing Trust fund Creation of affordable housing in numerous ways	\$525,789
Sub-total	\$1,020,789
<u>Open Space Conservation /Recreation</u>	
Town of Nantucket Public Access to open space acquisition fund for properties Phase 2	\$100,000
Town of Nantucket Survey plan for Weeweeder Valley open space	\$10,000
Open Space Reserves Reserve for future years	\$130,000
Nantucket Park and Recreation Commission	

Creation of multi use field complex on Nobadeer Farm Road, Phase 3	\$300,000
Nantucket Park and Recreation Commission To complete the security at the Skate Park	\$20,000
Sub-total	\$560,000
Administrative	
Community Preservation Committee Administrative and Operating expenses	\$93,211
Sub-total	\$93,211
TOTAL	\$2,400,000
And amounts to be appropriated from the following sources:	
SOURCES	AMOUNT
Raised and appropriated from FY 2011 Community Preservation Surcharge	\$1,701,000
From State matching funds for FY 2010, to be received in 2011	\$473,500
From undesignated reserve fund balance	\$225,500
Total Revenues	\$2,400,000

For fiscal year 2011 Community Preservation Purposes with each item considered a separate appropriation to be spent by the Community Preservation Committee. Provided however, that the above expenditures are conditional on the recording of appropriate historic preservation restrictions for historic resources, open space restrictions for open space resources, recreational restrictions for recreational resources, and for affordable housing restrictions for community housing; running in favor of an entity authorized by the Commonwealth to hold such restrictions for such expenditures; meeting the requirements of Chapter 184 of the General Laws pursuant to Section 12 of the Community Preservation Act.

(Kenneth Beaugrand, et al)

ARTICLE 27

(Appropriation: Adult Community Day Care)

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to continuously maintain the operations of the Adult Community Day

Care which has been in existence since 1992, providing a range of services and activities in an appropriate supervised setting for adults with functional impairments.

(Jeanette Topham, et al)

ARTICLE 28

(Appropriation: Plan for Polpis Bike Path)

To see if the Town will vote to request that the County and/or the Selectmen appoint a committee to create and implement a plan for the Polpis Road Bike Path that accomplishes the following:

- 1) Improve visibility from the road through selective vegetation management;
- 2) Improve safety at private driveway intersections;
- 3) Improve sight lines for motorist and bike path users;
- 4) Correct landscape features to improve ease of maintenance, appearance and safety;
- 5) Enhance scenic qualities of the Polpis Road corridor, including views of nearby water resources;
- 6) Respect privacy and concerns of abutters;
- 7) Create an "Adopt a Bike Path" program for ongoing maintenance and installation of new or improved landscaping features and public amenities;

and that said committee present a report no later than June 4, 2010, and that a sum of money not to exceed \$50,000 be appropriated, raised, borrowed, transferred from existing funds normally used for maintenance of public roads and facilities including those owned by the County, or applied from grants, gifts, state or federal funds granted to the Town or County of Nantucket for such purposes to accomplish implementation; or take any other action related thereto.

(Thomas J. David, et al)

ARTICLE 29

(Parking in the Core District)

To see if the Town will support a rule that will eliminate the ticketing of vehicles legally parked in the Core District for any period of time less than 24 hours from October 1 to May 31 every year.

(Michael Gregory Mehringer, et al)

ARTICLE 30

(Establish Local Procurement Study Committee)

To see if the Town will vote to:

Establish a Local Procurement Study Committee [LPSC] to be appointed by the Board of Selectmen. The LPSC shall include one member of the Town Finance Committee, the Town Purchasing Officer or a designee and five members-at-large representing the general public. The purpose of the Committee shall be to study the potential for adoption of policies and practices to address disadvantages local vendors may experience while participating in the municipal procurement process. The LPSC shall meet regularly and shall report progress to the Board of Selectmen within six months of its initial meeting.

(Patricia M. Bridier, et al)

ARTICLE 31

(Bylaw Amendments: Sewers and Sewer Districts)

To see if the Town will vote to establish certain bylaws heretofore adopted by the Town and approved by the Attorney General relating to sewers and sewer districts within the Town of Nantucket to be bylaws adopted pursuant to Chapter 396 of the Acts of 2008 ("an Act authorizing the Establishment of the Nantucket Sewer Commission and Sewer Districts in the Town of Nantucket") or take any other action related thereto.

(Board of Selectmen)

ARTICLE 32

(Bylaw Amendment: Wharves and Waterways)

To see if the Town will vote to amend Chapter 137 (Wharves and Waterways) Section 137-4 (Mooring regulations) of the Code of the Town of Nantucket as follows *(Note: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text; and, further, that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):*

E. Scope and size of chain on moorings. Length of mooring chain shall be at least the vertical height above the sea bottom to four feet above mean high water. ~~Moorings for boats up to 26 feet in length shall have a chain of 3/8 inch or larger; moorings for boats from 26 feet to 40 feet shall have a chain of 1/2 inch or larger; and mooring for boats from 40 feet or larger in overall length shall use a chain of 5/8 inch.~~ Moorings for boats 10-23 feet in length shall have a chain of 3/8 inch or larger; moorings for boats from 24 feet to 32 feet in length shall have a chain of 1/2 inch or larger; and moorings for boats 33 feet or larger in length shall use a chain of 5/8 inch. Maximum length of chain shall be no more than 2.5 times the maximum depth of the water, except where the Harbor Master determines otherwise. The location of all moorings shall be determined from time to time by the Harbor Master. No mooring shall be located in the main stream or any channel of any of the harbors of the Town, unless, in the opinion of the Harbor Master, the particular circumstances require it. Moorings shall be located so that

vessels lying on them shall not block any channel or approach to wharves or other moorings in the vicinity or create any other hazard to navigation. ~~If used, pennant length shall be twice the distance from the bow chock to the water line. Pennant line size shall be 3/8 inch for boats up to 10 feet, 7/16 inch for boats 21 feet to 30 feet, 1/2 nylon for boats 31 feet to 40 feet.~~ Overall pennant length shall be no longer than eight feet in all areas other than the General Anchorage. Pennant line size shall be 3/8 inch for boats up to 10 feet, 7/16 inch for boats 11 feet to 23 feet, 1/2 for boats 24 feet to 32 feet and 5/8 for boats greater than 33 feet.

F. ~~Any mooring may be inspected~~ All moorings will be inspected by a representative of the Marine & Coastal Resources Department or its designated representative on an annual basis, and ~~its owner~~ a mooring owner may be ordered by the Harbor Master to remove or relocate it ~~his/her mooring~~ whenever, in the judgment of the Harbor Master, the safety of other vessels or the optimum use of the area requires such action. The expense of such removal or relocation shall be the responsibility of the owner. Except in emergency situations, an owner shall have at least 14 days to relocate or remove a mooring when so ordered by the Harbor Master. All private moorings shall be removed from any shellfish areas prior to October 15. ~~If the mooring is a Helix type then the mooring must be outfitted with an approved cap.~~

G. Each mooring buoy, both summer and winter, shall be painted white and have a minimum one-inch blue band visible above the water and shall be marked with numbers assigned by the Harbor Master Department. The numbers and/or letters shall be a minimum of three inches in height and be clearly visible at all times. ~~All moorings will be marked with the appropriate grid location when assigned by the Harbor Master.~~ Spar buoys shall be upright at all times and not less than 40° at any period of tide and not less than 18 inches exposed. Mooring buoys shall be of customary shape and materials, and the Harbor Master may order the removal of any buoys deemed to be inappropriate in form or appearance. A mooring permit sticker assigned by the Harbor Master shall be affixed to the port side of the bow or the port side of the mast on classic-design wooden sailboats. The number will correspond with the number on the mooring float.

(Board of Selectmen)

ARTICLE 33

(Bylaw Amendment: Council for Human Services)

To see if the Town will vote to amend Chapter 12 (Council for Human Services) of the Code of the Town of Nantucket, by taking the following actions; and, further, that nonsubstantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text):*

§12.1. Establishment; purpose.

There is hereby established a Council for Human Services which shall see to the provision of all needed human services in a manner which can best serve the residents of Nantucket, the coordination of the efforts of existing service organizations and the undertaking of efforts to obtain assistance and financial aid from federal, state and local governments, as well as

private state and local governments, as well as private organizations, and the improvement of the provision of these services. The Council shall act as an advisory committee to town meeting, the Board of Selectmen and the Administration, and shall have no responsibility or authority to expend Town appropriations.

§12.2. Membership; terms; vacancies.

The Council shall consist of nine ~~five~~ Nantucket residents who shall be appointed by the Board of Selectmen, ~~for three-year terms; provided, however, that three of the initial appointments shall be for a term of one year, three for a term of two years and three for a term of three years. No member may be appointed to serve for more than two consecutive terms. One member shall be a member of the Board of Selectmen, and one member shall be a member of the Finance Committee, which members shall be appointed annually. These members shall serve ex-officio, and shall be, at the time of their appointment and throughout their terms on the Council, members of their respective bodies. Three members shall be at-large for three-year terms; provided, however, that one of the initial appointments shall be for a term of one year, one for a term of two years and one for a term of three years.~~ The term of office shall be based on a year commencing on July 1 of each calendar year. Vacancies occurring in any position during a term shall be filled for the balance of the unexpired term in the same manner as an original appointment.

~~§12.3. Authorization to establish budget; expenditures; grants.~~

~~The Council and its Coordinator, if so established by Town Meeting, shall be authorized to establish an annual budget and expend such funds and to apply for, accept and expend federal and state grants for such purposes aforementioned.~~

Or, to take any other action relative thereto.

(Board of Selectmen)

ARTICLE 34

(Bylaw: Nantucket Public Construction Projects)

To see if the Town will vote to: To create a new by-law, valid only in the town and county of Nantucket, Massachusetts which would require the winning bidder of Nantucket public construction projects, to hire at least 35% of all work crews, e.g. construction workers/carpenters, plumbers, electricians, plasterers, landscapers, et al, to be registered Nantucket voters. In the Nantucket Inquirer and Mirror newspaper, dated November 5, 2009, it was written that local contractors lost out on \$70 million of public construction jobs.

(Robert J. Baker, et al)

ARTICLE 35

(Bylaw: Property owned by the Town of Nantucket, Management of)

To see if the Town of Nantucket will create a new Chapter 112, Property owned by the Town of Nantucket, Management of, in the Code of Nantucket as indicated by the following highlighted text:

Chapter 112 Property owned by the town of Nantucket, Management of

Chapter 112-1 Prohibition of synthetic fertilizers and pesticides

Beginning January 1, 2011, no outdoor use of synthetic fertilizer or synthetic pesticide shall be used on property owned by the Town of Nantucket or owned and administered by the Airport Commission, the School Committee, the Parks and Recreation Commission, and the Wannacomet Water Commission. For the purpose of this chapter synthetic shall mean a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from natural occurring plant, animal or mineral sources. The term shall not apply to substances created by naturally occurring biological processes.

All other fertilizers, pesticides, and soil amendments shall be selected and applied in conformance with the Northeast Organic Farmers Association Standards for Organic Land Care, 4th edition, April 2009 and as may be amended and revised in the future.

Chapter 112-2 Exemptions

1. Synthetic pesticides otherwise lawfully used at wastewater treatment plants and related collection, distribution, and treatment facilities.
2. Synthetic pesticides in contained baits or traps for the purpose of rodent control.
3. Synthetic pesticides used in conjunction with the management and prevention of timber feeding pests including but not limited to termites and powder post beetles.
4. Synthetic pesticides used to control Dutch elm disease or other debilitating pests and diseases in Town trees.
5. Synthetic pesticides used to control invasive plant and animal species as determined by the Town of Nantucket Wetland Protection Regulations.

Chapter 112-3 Emergency Waivers

If an emergency public health situation warrants the use of pesticides which would otherwise not be permitted under this Chapter, the Town of Nantucket Board of Health shall have the authority to grant a temporary waiver.

If pesticides are used under the emergency waiver clause, then the area treated shall be conspicuously posted immediately after application and for a period of at least 48 hours.

All pesticides used on school grounds under this emergency waiver clause must be used in compliance with the Children and Families Protection Act governing pesticide use on school property, including standard notification of parents, teachers, students and staff.

(Cormac Collier, et al)

ARTICLE 36

(Bylaw Amendment: Streets and Sidewalks)

To see if the Town will vote to amend # 127 of the Code of the Town of Nantucket (Streets and Sidewalks) as follows:

Add: Article IX Vegetation Control for Safety along Roads, Bike Paths and Sidewalks.

127-26 This article adopts the manual entitled "Vegetation Control for Safety - A guide for Street and Highway Maintenance Personnel" prepared by the Federal Highway Administration Office of Highway Safety, current edition, as a guide for vegetation control on Nantucket roadways, bike paths and sidewalks.

127-27 Clear Zone: A "Clear Zone" defined as an unobstructed area beyond the edge of the vehicular traveled way, of between 5 and 8 feet in width, and a minimum of 13 feet in height shall be maintained along public roads shown on a map entitled "Clear Zone Maintenance Roadways" dated November 2009; and a minimum of 3 feet in width and 9 feet in height beyond the paved edge of any bicycle path. These areas shall be kept free of brush, tree limbs and branches and mowed not less than once every 4-6 weeks of the growing season.

127-28 Enforcement: These guidelines shall be enforced by the Board of Selectmen acting in any of its capacities, including Public Works Commissioners; or take any other action related thereto.

(Thomas J. David, et al)

ARTICLE 37

(Bylaw Amendment: Bicycles and Mopeds)

To see if the Town of Nantucket will vote to amend Chapter 57 (Bicycles) Section One as follows:

1. Redesignate Subsection E as Subsection F
2. Add a new Subsection E reading as follows:

"No operator of a bicycle shall permit same to be operated on a public right of way if there is a bicycle path adjacent to said right of way."

(James Lydon, et al)

ARTICLE 38

(Bylaw Amendment: Board of Sewer Commissioners/Sewer District Map Changes)

To see if the Town will vote to amend Chapter 41 (Board of Sewer Commissioners), sections 41-3A (Town Sewer District) and 41-3B (Siasconset Sewer District) of the Code of the Town of Nantucket by adding the following parcels to the respective maps:

Town Sewer District	
Map/Parcel	Address
41/12	4 Westmoor Lane
Siasconset Sewer District	
Map/Parcel	Address
73.4.2/85	8 Lincoln Street
73.4.2/46	7 - 9 Burnell Street
73.4.2/44	5 Burnell Street
73/104	1 Black Fish Lane
73/105	2 Black Fish Lane
73/106	11 Black Fish Lane
73/107	13 Black Fish Lane
73/108	15 Black Fish Lane
73/109	17 Black Fish Lane
73/110	19 Black Fish Lane
73/111	21 Black Fish Lane
73/112	23 Black Fish Lane
73/113	22 Black Fish Lane
73/114	20 Black Fish Lane
73/115	18 Black Fish Lane
73/116	16 Black Fish Lane
73/117	14 Black Fish Lane
73/118	12 Black Fish Lane
73/119	Black Fish Lane
73/2.3	30 Burnell Street
73/2.4	34 Burnell Street
73/2.5	32 Burnell Street
73/2.6	34A Burnell Street
73/2.7	28 Burnell Street
73/2.8	26 Burnell Street
73.4.1/26.1	31 Coffin Sias Street
73.4.2/1	17 Burnell Street
73.4.2/47	11 Burnell Street
73.4.2/48	15.5 Burnell Street
73.4.2/48.1	15 Burnell Street
73.4.2/49	13 Burnell Street

And, to take any other action as may be related thereto.

(Board of Selectmen)

ARTICLE 39

(Bylaw Amendment: Board of Sewer Commissioners/Siasconset Sewer District Map Change)

To see if the Town will vote to amend Chapter 41 (Board of Sewer Commissioners), Section 41-B (Siasconset Sewer District) of the Code of the Town of Nantucket Sewer District Map by adding the following parcel(s) to said map:

Map	Lot	Number	Street
73	104	1	Black Fish Lane
73	105	2	Black Fish Lane
73	106	11	Black Fish Lane
73	107	13	Black Fish Lane
73	108	15	Black Fish Lane
73	109	17	Black Fish Lane
73	110	19	Black Fish Lane
73	111	21	Black Fish Lane
73	112	23	Black Fish Lane
73	113	22	Black Fish Lane
73	114	20	Black Fish Lane
73	115	18	Black Fish Lane
73	116	16	Black Fish Lane
73	117	14	Black Fish Lane
73	118	12	Black Fish Lane
73	119		Black Fish Lane
73	2	24	Burnell Street
73	2.1	22	Burnell Street
73	2.2	20	Burnell Street
73	2.3	30	Burnell Street
73	2.4	34	Burnell Street
73	2.5	32	Burnell Street
73	2.6	34A	Burnell Street
73	2.7	28	Burnell Street
73	2.8	26	Burnell Street
73.4.1	2	40	Burnell Street
73.4.1	3	25	Clifton Street
73.4.1	25	21	Burnell Street
73.4.1	25.1		Burnell Street
73.4.1	26.1	31	Coffin Sias Street
73.4.2	1	17	Burnell Street
73.4.2	44	5	Burnell Street
73.4.2	46	9	Burnell Street
73.4.2	47	11	Burnell Street
73.4.2	48	15.5	Burnell Street
73.4.2	48.1	15	Burnell Street
73.4.2	49	13	Burnell Street
73.4.2	50	15R	Burnell Street

73.4.2	85	8	Lincoln Sias Street
73.4.2	89	13R	Burnell Street
73.4.2	127	4	Burnell Street
73.4.2	128		Burnell Street
49	162		Off Burnell Street
49	165.1		Burnell Street
49	166	52	Burnell Street
49	167	50	Burnell Street
49.3.2	1	23	Clifton Street
49.3.2	1.1	63	Burnell Street
49.3.2	1.2	73	Burnell Street
49.3.2	1.3	83	Burnell Street
49.3.2	1.4	55	Burnell Street
49.3.2	1.5	79	Burnell Street
49.3.2	16	44	Burnell Street
49.3.2	18	54	Burnell Street

Or, to take any other action related thereto.

(Kevin Dale. et al)

ARTICLE 40

(Bylaw Amendment: Board of Sewer Commissioners/Town Sewer District)

To see if the Town will vote to amend Chapter 41 (Board of Sewer Commissioners), Section 41-3A (Town Sewer District) of the code of the Town of Nantucket Sewer District Map by adding the following parcel to the map.

Map and Parcel	Address
55 123	76 Hummock Pond Road

(Kayla Hilts, et al)

ARTICLE 41

(Bylaw Amendment: Coastal Properties Owned by Town, Management of)

To see if the Town shall vote to amend Chapter 67-1, § C. of the Code of the Town of Nantucket, Management of Coastal Properties Owned by the Town of Nantucket, changing the sunset date of the Duration of Moratorium to "December 31, 2013."

(Catherine Flanagan Stover, et al)

ARTICLE 42

(Bylaw Amendment: Swimming Pools, Private)

To see if the Town will vote to amend Chapter 129 (Swimming Pools, Private) of the Code of the Town of Nantucket as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods to denote changes are not meant to become part of the final text*):

129-1B Location. The location of the swimming pool on the property shall conform to the ~~dimensional~~ setback requirements of the Zoning Bylaw for ~~a structure~~ swimming pools.

(Board of Selectmen for Historic District Commission)

ARTICLE 43

(Zoning Change: Split Zoning District Corrections - Various Locations)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket as follows:

1. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Limited Use General 1 (LUG-1) district:

Map	Lot	Number	Street
80	69 (a portion of)	109	Surfside Road
80	70 (a portion of)	111	Surfside Road
80	71 (a portion of)	115	Surfside Road
80	72 (a portion of)	119	Surfside Road
80	119 (a portion of)	121	Surfside Road
80	120 (a portion of)	125	Surfside Road
80	121(a portion of)	129	Surfside Road
80	192 (a portion of)	131	Surfside Road
80	249 (a portion of)	133	Surfside Road
80	250 (a portion of)	135	Surfside Road
80	251(a portion of)	137	Surfside Road
80	143.1(a portion of)	139	Surfside Road
80	143.2 (a portion of)	6	Pochick Avenue
80	101.5 (a portion of)	143D	Surfside Road
80	101.4 (a portion of)	143C	Surfside Road
80	100 (a portion of)	145	Surfside Road

2. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Residential 20 (R-20) district:

Map	Lot	Number	Street
80	36 (a portion of)	149	Surfside Road
80	35 (a portion of)	8	Nobadeer Avenue
87	114 (a portion of)	5	Station Street
87	150 (a portion of)	10	Auriga Street
80	219.3 (a portion of)	10	Auriga Street

3. By placing the following properties currently located in the Limited Use General 3 (LUG-3) district in the Residential 20 (R-20) district:

Map	Lot	Number	Street
88	79 (a portion of)	64	Nobadeer Avenue
88	13 (a portion of)	68	Nobadeer Avenue
88	58 (a portion of)	63	Nobadeer Avenue
88	58.1 (a portion of)	63	Nobadeer Avenue

4. By placing the following properties currently located in the Residential 20 (R-20) district in the Limited Use General 2 (LUG-2) district:

Map	Lot	Number	Street
87	92 (a portion of)		Weweeder Pond
87	93 (a portion of)	41	Western Avenue
87 (80)	154 (a portion of)		Weweeder Pond
79	35 (a portion of)	12R	Skyline Drive
79	4 (a portion of)	8	Skyline Drive

5. By placing the following properties currently located in the Residential 20 (R-20) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
88	47 (a portion of)		beach
88	48 (a portion of)		beach
87	40 (a portion of)		beach
87	43 (a portion of)		beach
87	48 (a portion of)		beach
87	60 (a portion of)		beach

6. By placing the following properties currently located in the Residential 10 (R-10) district in the Residential Commercial (RC) district:

Map	Lot	Number	Street
55	240.1 (a portion of)	38	Sparks Avenue

7. By placing the following properties currently located in the Sconset Residential 20 (SR-20) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
48	6 (a portion of)		Sconset Bluff
48	8 (a portion of)		Sconset Bluff

8. By placing the following properties currently located in the Limited Use General 3 (LUG-3) district in the Sconset Residential 20 (SR-20) district:

Map	Lot	Number	Street
73.1.4	11.2 (a portion of)	3	Baxter Road

9. By placing the following properties currently located in the Sconset Residential 1 (SR-1) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
73.1.3	3 (a portion of)	2	Nosegay Lane
73.1.3	4 (a portion of)	4	Nosegay Lane
73.1.3	5.8 (a portion of)		Sconset Bluff

10. By placing the following property currently located in the Limited Use General 3 (LUG-3) district in the Limited Use General 1 (LUG-1) district:

Map	Lot	Number	Street
43	93 (a portion of)	16	Gardner Road
43	132 (a portion of)	28	Gardner Road
43	131 (a portion of)	11	North Road

All as shown on a map entitled "2010 Annual Town Meeting Warrant Article 43" dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 44 **(Zoning Change: Eel Point Road)**

To see if the Town will vote amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
37	1		Eel Point Road
37	2		Eel Point Road
37	3		Eel Point Road
34	1		Eel Point Road
33	1	187	Eel Point Road
33	2	185	Eel Point Road
33	3	183	Eel Point Road
33	4	16	Lavendar Lane
33	23	8	Lavendar Lane
33	5	169	Eel Point Road
33	9	141	Eel Point Road
33	6		Eel Point Road
33	7	155	Eel Point Road
33	8	151	Eel Point Road
33	10		Eel Point Road
38	37	Off	Warren's Landing Road
38	38	Off	Warren's Landing Road
38	39	Off	Warren's Landing Road
38	3	136	Eel Point Road
33	24	4	Lavendar Lane
32	33	110	Eel Point Road
32	32	86	Eel Point Road
32	31	76	Eel Point Road
39	2	90	Eel Point Road
39	1	90	Eel Point Road
38	7	1	Warren's Landing Road
38	121	15	Ridge Lane
38	122	14	Ridge Lane
38	129	7	Warren's Landing Road
38	115	28	Ridge Lane
38	139	13	Warren's Landing Road
38	131	23	Warren's Landing Road
38	59	31	Warren's Landing Road
38	130	16	Warren's Landing Road
38	92	8	Warren's Landing Road
38	42	193	Madaket Road
38	11.1	233R	Madaket Road
38	11.2	30	Warren's Landing Road

38	11.3	26	Warren's Landing Road
38	11.4	32	Warren's Landing Road
38	26.3	46	Warren's Landing Road
38	47	48	Warren's Landing Road
38	48	48	Warren's Landing Road
38	30	55	Warren's Landing Road
38	29	52	Warren's Landing Road
38	27	50	Warren's Landing Road
38	26.1	10	Blue Heron Way
38	25	25	North Cambridge Street
38	24	27	North Cambridge Street
38	22	29	North Cambridge Street
38	158	21	North Cambridge Street
38	159	17	North Cambridge Street
38	172		
38	171		
38	13		North Cambridge Street
38	12	34R	Warren's Landing Road
38	170		
38	169		
38	168		
38	167		
38	166		
38	165		
38	164		
38	163		
38	162		
38	161		
38	160		North Cambridge Street
38	180		
38	179		
38	178		
38	177		
38	176		
38	175		
38	174		
38	173		
38	26.2	9	Blue Heron Way

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 44” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 45

(Zoning Change: Appleton Road)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Village Trade, Entrepreneurship and Craft (VTEC) district:

Map	Lot	Number	Street
66	66	43	Appleton Road
66	502	47	Appleton Road

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 45” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 46

(Zoning Change: Fairgrounds Road and Old South Road)

To see if the Town will vote to take the following actions:

1. To amend the Zoning Map of the Town of Nantucket by placing properties currently owned by the Town of Nantucket and located in the Residential Commercial 2 (RC-2) district in the Residential 5 (R-5) district and the Commercial Neighborhood (CN) district.
2. To amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Commercial Neighborhood (CN) district:

Map	Lot	Number	Street
67	41.1	15	Old South Road
67	41.2	17	Old South Road
67	41.3	17	Old South Road
67	41.4	17A	Old South Road
67	41.5	17B	Old South Road

67	41.6	17C	Old South Road
67	667	19	Old South Road
67	668	19A	Old South Road
67	669	19C	Old South Road
67	41	19B	Old South Road

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 46” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 47

(Zoning Change: West Miacomet Road and Somerset Road)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Residential 10 (R-10) district:

Map	Lot	Number	Street
66	151	126	Somerset Road
66	150	130	Somerset Road
66	150.1	2	West Miacomet Road
81	163	132	Somerset Road
81	160	4	West Miacomet Road

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 47” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 48

(Zoning Change: Miacomet Golf Club)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by taking the following actions:

3. By placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Commercial Neighborhood (CN) district:

Map	Lot	Number	Street
81	150	12	West Miacomet Road
81	161	6	West Miacomet Road
81	162	8	West Miacomet Road
81	164	6.5	West Miacomet Road
66	67 (a portion of)	70	Bartlett Road

4. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Commercial Neighborhood (CN) district:

Map	Lot	Number	Street
81	1 (a portion of)	1	West Miacomet Road
82	2 (a portion of)	3	West Miacomet Road

5. By placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
66	69	125	Somerset Road
69	69.1 (a portion of)	123	Somerset Road

6. By placing the following properties currently located in the Country Overlay District (COD) in the Town Overlay District (TOD):

Map	Lot	Number	Street
81	1 (a portion of)	1	West Miacomet Road
82	2 (a portion of)	3	West Miacomet Road
81	150	12	West Miacomet Road
66	67 (a portion of)	70	Bartlett Road

All as shown on a map entitled "2010 Annual Town Meeting Warrant Article 48" dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 49
(Zoning Change: South Pasture)

To see if the Town will vote to take the following actions:

1. To amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Limited Use General 3 (LUG-3) district in the Commercial Industrial (CI) district:

Map	Lot	Number	Street
78	4 (a portion of)		Maddequecham Valley Road

2. To amend the map entitled "Town and Country Designations" of the Town of Nantucket by placing the following properties currently located in the Country Overlay District, in the Town Overlay District:

Map	Lot	Number	Street
78	4 (a portion of)		Maddequecham Valley Road

All as shown on a map entitled "2010 Annual Town Meeting Warrant Article 49" dated January 22, 2010 and filed herewith at the Office of the Town Clerk.

(Board of Selectmen for Planning Board)

ARTICLE 50
(Zoning Change: Surfside Area Plan - Surfside West)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by taking the following actions:

1. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Limited Use 1 (LUG-1) district:

Map	Lot	Number	Street
80	218	20	South Shore Road
80	116	24	South Shore Road
80	178	28	South Shore Road
80	300	4	Blueberry Lane
80	301	6	Blueberry Lane
80	302	8	Blueberry Lane
80	297.8		South Pasture Lane
80	297.7	12	South Pasture Lane
80	297.6	10	South Pasture Lane
80	297.5	8	South Pasture Lane
80	297.4	6	South Pasture Lane
80	297.3	4	South Pasture Lane

80	297.2	25	South Shore Road
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2. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Residential 40 (R-40) district:

Map	Lot	Number	Street
67	74	4	South Shore Road
67	337	6	South Shore Road
80	3	8	South Shore Road
80	67	14	South Shore Road
80	66	18	South Shore Road
80	65	14	South Shore Road

All as shown on a map entitled "2010 Annual Town Meeting Warrant Article 50" dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 51

(Zoning Change: Surfside Area Plan - Surfside South)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by taking the following actions:

1. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Limited Use 1 (LUG-1) district:

Map	Lot	Number	Street
79	27	62	Lovers Lane
79	77	52	Pochick Avenue
79	128	54	Pochick Avenue
79	163	58	Pochick Avenue
79	162	60	Pochick Avenue
79	179	64	Pochick Avenue
79	178	64	Pochick Avenue
79	177	66	Pochick Avenue
79	176	21	Irving Street
79	175		Irving Street
79	156	68	Pochick Avenue
79	155	70	Pochick Avenue
79	154	72	Pochick Avenue

79	118	27	Okorwaw Avenue
79	76	55	Pochick Avenue
79	127	53	Pochick Avenue
79	126	57	Pochick Avenue
79	125	59	Pochick Avenue
79	159	61	Pochick Avenue
79	158	18	Irving Street
79	160		Pochick Avenue
79	122	14	Irving Street
79	124	14	Irving Street
79	123	12	Irving Street
79	73	12	Irving Street
79	157	17	Irving Street
79	120	67	Pochick Avenue
79	121	15	Irving Street
79	72	13	Irving Street
79	119	69	Pochick Avenue
79	70	69R	Pochick Avenue
79	71	69	Pochick Avenue
79	15	50	Weweeder Avenue
79	69	71	Pochick Avenue
79	68	75	Pochick Avenue
79	14	54	Weweeder Avenue
79	67	11	Adams Street
80	102	4	Weweeder Avenue
80	102.1	6	Weweeder Avenue
80	37	4	Nobadeer Avenue
80	38	1	Weweeder Avenue
80	219.2	1	Weweeder Avenue

2. By placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
79	13		Weweeder Avenue

3. By placing the following properties currently located in the Limited Use General 3 (LUG-3) district in the Residential 20 (R-20) district:

Map	Lot	Number	Street
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88	59	65	Nobadeer Avenue
88	59.1	65	Nobadeer Avenue

4. By placing the following properties currently located in the Residential 20 (R-20) in the Limited Use General 3 (LUG-3):

Map	Lot	Number	Street
88	40		beach
88	41		beach
88	42		beach
88	43		beach

5. By placing the following properties currently located in the Residential 20 (R-20) and the Limited Use General 2 (LUG-2) district in the Limited Use General 3 (LUG-3) district:

Map	Lot	Number	Street
87	68	8	Western Avenue
87	67	8	Western Avenue

All as shown on a map entitled "2010 Annual Town Meeting Warrant Article 51" dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 52

(Zoning Change: Somerset Road and Somerset Lane)

To see if the Town will vote to take the following actions:

1. To amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Limited Use General 2 (LUG-2) district in the Residential 40 (R-40) district:

Map	Lot	Number	Street
66	135	91	Somerset Road
66	135.1	89	Somerset Road
66	135.2	43	Somerset Lane #1
66	135.3	37	Somerset Lane
66	135.4	39	Somerset Lane
66	135.5	41	Somerset Lane
66	135.6	35	Somerset Lane

66	135.7	89	Somerset Road #2
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2. To amend the map entitled “Town and Country Designations” of the Town of Nantucket by placing the following properties currently located in the Town Overlay District, in the Country Overlay District:

Map	Lot	Number	Street
66	134.1	33	Somerset Lane
66	134.2	31	Somerset Lane
66	134.3	29	Somerset Lane

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 52” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 53 (Zoning Change: Monomoy)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Limited Use General 1 (LUG-1) district in the Village Residential (VR) district:

Map	Lot	Number	Street
54	138	9	Monomoy Road
54	196	11	Monomoy Road
54	198	13	Monomoy Road
54	200	15	Monomoy Road
54	203	17	Monomoy Road
54	226	2	Sandwich Road
54	227	4	Sandwich Road
54	233	6	Sandwich Road
54	228	12	Chatham Road
54	229	10	Chatham Road
54	230	8	Chatham Road

All as shown on a map entitled “2010 Annual Town Meeting Warrant Article 53” dated November 5, 2009 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

ARTICLE 54

(Zoning Change: Intensity Regulations - Residential 5 (R-5))

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket as by taking the following actions (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text*):

1. By amending section 16A as follows:

A. Except as expressly provided by § 139-33 of this chapter, no structure or building shall be constructed or used, and no lot or parcel of land shall be built upon, improved or used, and no lot shall be changed in size, shape, boundaries or frontage, unless in conformity with the requirements set forth below:

Yard Setback					
District Defined in § 139-3	Minimum Lot Size (square feet)	Front (feet)	Side/Rear (feet)**	Frontage (feet)*	Ground Cover Ratio
LUG-1	40,000	35	10	100	7%
LUG-2	80,000	35	15	150	4%
LUG-3	120,000	35	20	200	3%
R-1	5,000	10	5 [†]	50	30%
R-5	5,000	10	Side: 10 minimum on one side; 5 thereafter Rear: 5	50	40%
R-10	10,000	20	10	75	25%
SR-10	10,000	15	5	75	25%
SR-20	20,000	30	10	75	12.50%
V-R	20,000	30	15	100	10.0%
R-20	20,000	30	10	75	12.5%

Yard Setback					
District Defined in § 139-3	Minimum Lot Size (square feet)	Front (feet)	Side/Rear (feet)**	Frontage (feet)*	Ground Cover Ratio
R-40	40,000	30	10	75	10.0%
ROH	5,000	None	5	50	50%
CDT	3,750	None	Side: none Rear: 5	35	75%
RC	5,000	None	5 ¹	40	50%
RC-2	5,000	10	5 ¹	40	50%
LC	5,000	None	5	40	50%
CMI	5,000	None	None	50	50%
CN	7,500	10	Side: 5 Rear: 10	50	40%
CTEC	10,000	10	Side: 5 Rear: 10	50	40%
CI	15,000	20	10	75	50%
MMD	10 acres	50	50	300	0.5%
VN	10,000	10	10	50	30%
VTEC	40,000	30	20	100	7%

NOTES:

See § 139-16C for additional requirements and exceptions for yards

See § 139-33E for nonconforming lots

¹ ~~For lots abutting two or more street or ways, whether constructed or not, the required front yard setback shall be maintained from one street or way, and the required side yard setback shall be maintained from each other lot line, except in the R-1 and RC-2 Districts, where a minimum ten-foot side yard setback shall be maintained from any other street or way, whether constructed or not.~~

2. By amending section 16C as follows:

C. Additional requirements and Exceptions for yards. [See § 139-33E(3) below.]

(1) The Board of Appeals may grant a special permit to reduce the ten-foot side yard setback in R-5 and the ten-foot side and rear yard setback in R-10, SR-10, R-20 and SR-20 to five feet.

(2) The Board of Appeals may grant a special permit to validate unintentional setback intrusions not greater than five feet into a required yard and not closer than four feet from a lot line, provided that it shall first find that the burden of correcting the intrusion substantially outweighs any benefit to an abutter of eliminating the intrusion and, if the intruding structure was so sited after 1990, the siting of the structure was reasonably based upon a licensed survey.

(3) For lots abutting two or more street or ways, whether constructed or not, the required front yard setback shall be maintained from one street or way, and the required side yard setback shall be maintained from each other lot line, except in the R-1 and RC-2 Districts, where a minimum ten-foot side yard setback shall be maintained from any other street or way, whether constructed or not.

(4) In the R-5 district only, the ten-foot side yard setback may be reduced to five-feet under one of the following conditions:

- (a) A five-foot side yard setback may apply to a secondary dwelling or accessory structure that is located within twenty-feet of the rear lot line.
- (b) Where a common driveway of at least ten-feet in width is provided to allow access to two or more lots.

And, further, that non-substantive changes to the numbering of this Bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket.

Or to take any other action related thereto.

(Board of Selectmen for Planning Board)

ARTICLE 55

(Zoning Bylaw Amendment: Intensity Regulations - Swimming Pools)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, section 16C, by adding a new subsection (*NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text*):

(5) In or above ground exterior swimming pools containing 1,000 gallons or more shall be set back a minimum of 20 feet from all lot lines as measured from the inside vertical face of the pool.

And, further, that non-substantive changes to the numbering of this Bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket.

Or to take any other action related thereto.

(Board of Selectmen for Historic District Commission)

ARTICLE 56

(Zoning Bylaw Amendment: Secondary Dwelling)

To See if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, section 2, by taking one of the following actions *NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text*):

1. SECONDARY DWELLING - A detached single family dwelling unit or garage apartment located on the same lot as a primary dwelling unit. The ground cover of the secondary dwelling shall be a minimum of 20% less or more than the primary dwelling ~~with a scalar separation between the two of at least 12 feet.~~ The primary and secondary dwelling must be separated by a minimum distance of 10 feet, measured at grade at closest point between the dwellings; excluding retaining walls, window wells, platforms, decks, and steps, chimneys, bulkheads, bay windows, bow windows, roof eaves and overhangs, unenclosed breezeways, air conditioning units, fuel tanks, trash bins, and fences. Relief from the scalar separation requirement may be granted by a special permit issued by the Planning Board subject to a finding that the reduced separation is in harmony with the general purpose and intent of this chapter. A secondary dwelling may only be attached to the primary dwelling by a breezeway as defined in §139-2.

Both dwelling units shall be in the same ownership unless one of the two dwelling units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is a separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership."

The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a Building Permit. Planning Board approvals granted after April 8, 1996 shall be valid for a period of two years from the date of plan endorsement.

The principal purpose of secondary dwellings is to create housing opportunities through the provision of affordable rental housing for year round residents, including senior citizens, while affording the owner of the primary residence with the opportunity to generate supplemental income. The intent of this provision is also that one of the two dwellings be designated and constructed at such scale and bulk so as to be clearly subordinate in both use and appearance.

BREEZEWAY

A roofed passageway, open or enclosed, connecting two buildings. ~~For purposes only of §139 7A(3) below.~~ When used to connect a primary dwelling and secondary dwelling, any such

breezeway shall be single-story and not a bridge, and with a minimum length of ~~12~~ 10 feet and a maximum width of eight feet.

or

2. SECONDARY DWELLING - A detached single family dwelling unit or garage apartment located on the same lot as a primary dwelling unit. The ground cover of the secondary dwelling shall be a minimum of 20% less or more than the primary dwelling ~~with a scalar separation between the two of at least 12 feet.~~ A secondary dwelling may only be attached to the primary dwelling by a breezeway as defined in §139-2. Both units shall be in the same ownership unless one of the two units is subject to the NHNC. The ownership of a lot by a condominium cooperative housing corporation, land trust, or other common interest ownership entity in which there is separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership".

The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a Building Permit. Planning Board approvals granted after April 8, 1996 shall be valid for a period of two years from the date of plan endorsement.

The principal purpose of secondary dwellings is to create housing opportunities through the provision of affordable rental housing for year round residents, including senior citizens, while affording the owner of the primary residence with the opportunity to generate supplemental income. The intent of this provision is also that one of the two dwellings be designed and constructed at such scale and bulk so as to be clearly subordinate in both use and appearance.

BREEZEWAY

A roofed passageway, open or enclosed, connecting two buildings. ~~For purposes only of §139-7A (3) below~~ When used to connect a primary dwelling and secondary dwelling, any such breezeway shall be single-story and not a bridge, and with a minimum length of ~~12~~ 10 feet and maximum width of eight feet.

(Linda F. Williams, et al)

ARTICLE 57

(Zoning Bylaw Amendment: Residential Districts/Exceptions)

To see if the Town of Nantucket will amend the Nantucket Zoning Bylaw Chapter 139 by inserting the highlighted text as following:

139-8.B.(5)(b)[1] Application for a special permit for MRD shall be accompanied by two plans showing the dimensions and area of lots as they might be established under conventional zoning and under the MRD alternative. ~~The conventional plan will be reviewed and considered concurrent with the MRD application. Any subdivision roads within the conventional plan shall have a forty (40) layout.~~

139-8.B.(7)c[2] MRD shall conform to the area and open land requirements outlined in the following table:

	LUG-3	LUG-2	LUG-1
Minimum tract area (acres)	*22	*15	*8
Open land required	80%	75%	65%
Upland open land required	60%	60%	70%
	R-2	R-10	R-1, RC, RC-2
Minimum tract area (acres)	3.7	2	1
Open land required	60%	40%	10%
Upland open land required	75%	75%	75%

NOTES:

*The Planning Board may waive this minimum tract area if it determines that the proposed MRD is more in keeping with the surrounding area, promotes a more efficient use of the land, and is consistent with the general intent of this chapter.

139-8.B.(7)(a) [6] On lots that are partially disturbed, the selection of the open space area will be based on its quality and function as it relates to the purpose and intent of this bylaw. The Planning Board should first consider preserving ecologically important preexisting natural areas when determining the open space area before considering degraded areas that are more suitable for building lots.

(Cormac Collier, et al)

ARTICLE 58

(Zoning Bylaw Amendment: Residential Districts/Permitted Uses)

To see if the Town will amend the Nantucket Zoning Bylaw Chapter 139 by inserting the highlighted text as following:

139-8.A.(3) Cluster development shall conform to the area and dimensional requirements outlined in the following table:

	MMD	LUG-3	LUG-2	LUG-1
Minimum tract area (acres)	20	10	10	5
Open land required	90%	80%	75%	65%
Upland open land required	60%	60%	60%	70%
Minimum lot size (square feet)	20,000	10,000	10,000	10,000
1 house/lot size*	NA	9,000	9,000	9,000
Maximum ground cover	NA	20%	20%	20%
Minimum frontage	20	20	20	20
Front setback	30	15	15	15
Side/rear setback	10	10	10	10

	R-2	R-10	R-1,ROH, RC, RC-2
Minimum tract area (acres)	2.5	2	2
Open space required	60%	40%	10%
Upland open land required	75%	75%	75%
Minimum lot size (square feet)	5,000	4,000	3,500
1 house/lot size*	4,500	3,750	3,200
Maximum ground cover	50%	50%	75%
Minimum frontage	20	20	20
Front setback	15	15	10
Side/Rear setback	5	5	5

139.8.A.(3)(e) On lots that are partially disturbed, the selection of the open space area will be based on its quality and function as it relates to the purpose and intent of this bylaw. The Planning Board should first consider preserving ecologically important preexisting natural areas when determining the open space area before considering degraded areas that are more suitable for building lots.

139.8.A.(4)(a) A cluster development shall be entitled to a an increase of 10% above the number of building lots which could otherwise have been created on the parcel under 139-16A of this chapter as demonstrated by the concurrent submission of a dimensional sketch plan showing conventional subdivision, as well as any additional density bonuses which may be permitted under Subsection B(4)(b) and (c) below. Any subdivision roads within the conventional plan shall have a forty (40) layout.

(Cormac Collier, et al)

ARTICLE 59

(Home Rule Petition: Land Bank Real Estate Conveyance)

To see if the Town will vote to present the Home Rule petition set forth below to the General Court, that the town's representatives in the General Court be requested to introduce legislation set forth below, and that the General Court be authorized, with the approval of the Nantucket Board of Selectmen, to vary the specific text of the requested legislation within the scope of the public policy objectives of the Home Rule Petition set forth below:

AN ACT APPROVING THE NANTUCKET ISLANDS LAND BANK TO SELL, CONVEY OR OTHERWISE DISPOSE OF CERTAIN LAND SITUATED IN THE TOWN OF NANTUCKET FOR ANY LAWFUL PURPOSE

Be in enacted by the Senate and the House of Representatives in General Court assembled, and by authority of the same, as follows:

Section 1. Pursuant to Article XCVII of the Amendments to the Constitution of the Commonwealth of Massachusetts notwithstanding the provisions of any general or special law to the contrary, the Nantucket Islands Land Bank may sell, convey or otherwise dispose of

certain land situated in the Town of Nantucket and described as an approximately 5,000 square foot portion of Town of Nantucket Assessor's Map 42.3.4, Parcel 2.

Section 2. This act shall take effect upon its passage.

(Board of Selectmen for Nantucket Islands Land Bank Commission)

ARTICLE 60

(Home Rule Petition: Community Housing Bank)

To see if the Town will vote to request its representatives in the General Court to introduce legislation seeking a special act set forth below and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in perfecting the language of this proposed legislation in order to secure passage, such legislation to read substantially as follows:

AN ACT ESTABLISHING A NANTUCKET COMMUNITY HOUSING BANK

SECTION 1. For the purposes of this act, the words and phrases set forth in this section shall have the following meanings:

"Community Housing", rental and home ownership housing units for use by those residents of Nantucket earning 150 per cent or less of the median household income for Nantucket county, as calculated and adjusted for household size annually by the federal Department of Housing and Urban Development (HUD); this percentage of median income, should economic conditions warrant a change, can be adjusted by a majority vote of the housing bank commission.

"Eligible Applicants", non-profit and for-profit corporations and organizations, individuals, and public entities.

"Housing Bank", the Nantucket Community Housing Bank, established by section 2.

"Housing Bank Commission", the Nantucket Community Housing Bank Commission, established by section 3.

"Legal representative", with respect to any person, shall mean any other person acting under a written power-of-attorney executed by that person, but any affidavit attesting to the true and complete purchase price of real property, submitted to the housing bank commission under section 9, may also be signed on behalf of that person by an attorney admitted to practice in the commonwealth.

"Purchaser", the transferee, grantee or recipient of any real property interest.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or a seller's nominee, or for the seller's benefit, for the transfer of any real property interest, including, but not limited to, all cash or other property paid or transferred by or on behalf of the

purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or the seller's nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of transfer but excluding real estate taxes or other municipal liens or assessments which are not overdue at the time of the transfer; and the fair market value at the time of transfer of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for the real property interest.

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under Massachusetts General Laws chapter 183A; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less than thirty years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

"Seller", the transferor, grantor or immediate former owner of any real property interest.

"Time of transfer", of any real property interest shall mean, the time that the transfer is legally effective between the parties to the transfer, and, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of the recording or filing.

SECTION 2. There shall be a Nantucket Community Housing Bank, to be administered by a housing bank commission established by section 3, for the purpose of providing funding for community housing as set forth in section 5. The Housing Bank shall be a body politic and corporate and a public instrumentality, and the exercise of the powers conferred upon the Housing Bank by this act shall be considered to be the performance of an essential governmental function.

SECTION 3.

(a) The Nantucket Community Housing Bank shall be administered by a housing bank commission consisting of five (5) members who are legal residents of Nantucket, each person to be elected to a three (3) year term, in the same manner as other elected town officials. The Nantucket board of selectmen shall appoint the initial five members to serve from the effective date of this act until the first elections of the regular members at the town's regular or special town election after the effective date of this act. The initial terms, which will be drawn by lot by the initial five appointed members, shall be staggered so that two members are elected each year, and in the third year, one member elected, such elections following the initial election.

(b) Vacancies: Should a vacancy occur during the term of any elected town member, the housing bank commission and the board of selectmen shall jointly appoint an interim member to serve until the next scheduled town election.

(c) Administration: Members shall serve without compensation. The initial appointed members shall adopt temporary rules and regulations to the extent necessary to conduct business until the regular members are elected. The housing bank commissions shall elect a chairman and a vice chairman from among their regular members and shall elect a secretary and a treasurer who may be the same person, and who need not be members of the housing bank commission. The members of the housing bank commissions shall adopt, after holding a public hearing, rules and regulations for conducting its internal affairs and procedural guidelines for carrying out its responsibilities under this act.

(d) Quorum: A quorum for the Nantucket Community Housing Bank Commission shall be three or more members. Decisions of the Housing Bank Commission shall be by majority vote at a meeting where a quorum is present. The Housing Bank Commission may make rules regarding attendance. The Housing Bank Commission shall keep accurate records of its meetings and actions and shall file annual reports that shall be distributed with the annual report of the Town of Nantucket. The Housing Bank Commission shall be classified as a municipal agency for purposes of chapter 268A of the General Laws, and be subject to the open meeting law (chapter 39, sections 23A, 23B and 23C of the General Laws).

SECTION 4A. The housing bank commission shall (a) provide funding as has been first approved by an annual or special town meeting of the town of Nantucket, in the form of grants, loans, loan guarantees, lines of credit, interest subsidies, rental assistance or any other means determined to further the goals of the housing bank for eligible community housing activities under section 5, (b) accept gifts of funds to further the purposes of the housing bank; (c) prepare an annual budget, provided however no more than 5% of all funds received by the housing bank during any fiscal year may be spent for administration purposes without approval by an annual or special town meeting of the town of Nantucket, (d) hire staff and obtain professional services that are necessary in order to perform its duties; (e) adopt regulations and procedures that it considers necessary or appropriate, subject to this act, regarding the use and investment of its funds and the keeping of records and accounts; (f) adopt procedures in the form of rules and regulations that it considers necessary or appropriate setting forth its programmatic goals, policies and recommendations to serve as standards for decisions to provide funding for programs under section 5, provided however, such procedures shall not take effect until approved by an annual or special town meeting of the town of Nantucket; and (g) enter into and enforce contracts that it considers necessary to achieve the goals of this legislation.

SECTION 4B. The Town of Nantucket may appropriate money to be deposited in the Nantucket Housing Fund as provided in said section 7A. The Town of Nantucket is hereby further authorized to provide funds to repay any notes or bonds of the town issued pursuant to this section and, when authorized by a two thirds vote of town meeting as defined in G.L. Chapter 44, section. 1, to incur debt of the town for such purposes in accordance with the provisions of G. L. Chapter 44, section 7(3).

SECTION 4C. The housing bank may issue bonds and notes to further the purposes of the housing bank but only if the issuance of these bonds or notes has been approved by a two thirds majority vote at a Nantucket town meeting. The proceeds of such bonds or notes may

be used to pay, in whole or in part, for the purposes set forth in section 4A of this act, reserves for debt service and other expenses, to pay consulting appraisal advisory and legal fees and costs incidental to the issuance and sale of such bonds and notes, to purchase, refund or renew bonds or notes previously issued and to pay an other costs and expenses of the housings bank commission necessary for the accomplishment of its purposes. Bonds or notes issued pursuant to this act shall be authorized by the commission which shall have full power and authority to determine the amount, form, terms, conditions, provisions for payment of interest and all other details thereof and to provide for the sale and issuance at such price and in such manner as the Commission shall determine subject only to any limitation set forth in this Act. Unless the town of Nantucket shall have authorized by two-thirds vote of a town meeting the pledging of the full faith and credit of the town or county of Nantucket to secure an issue of bonds or notes of the housing bank, all bonds or notes issued hereunder shall be payable solely from the fees and other revenues of the housing bank pledged to their payment and shall not be deemed a pledge of the full faith and credit of the Town or County of Nantucket, the Commonwealth of Massachusetts or any political subdivision thereof. The Housing Bank Commission may enter into any agreements, including without limitation a loan agreement and a trust agreement, necessary to effectuate and to secure any bonds or notes issued by the housing bank. Such agreements may pledge or assign, in whole or in part, the revenues and other money held or to be received by the housing bank. Such agreements may contain such provisions for protecting and enforcing the rights, security and remedies of the holders of such bonds or notes, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the housing bank in relation to the custody, safeguarding, investment and application of money, the issuance of additional debt obligations, the use of any surplus proceeds of the borrowing, including any investment earnings thereon, and establishment of special funds and reserves. The pledge of any such agreement shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made; the revenues, money, rights and proceeds so pledged and then held or thereafter acquired or received by the housing bank shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the town or county, irrespective of whether such parties have notice thereof. No document by which a pledge is created need be filed or recorded except in the records of the housing bank and no filing need be made under the Uniform Commercial Code.

The trustee with respect to any such trust agreement entered into pursuant to this section shall be a trust company or a bank having the powers of a trust company within the commonwealth. Any such trust agreement may provide that any money received thereunder may be held, deposited or invested by the trustee, notwithstanding the provisions of section 7A pending the disbursement thereof, in any deposits or investments which are lawful for the funds of savings banks and shall provide that any officer with whom or any bank or trust company with which such money shall be deposited shall act as trustee of such money and shall hold and apply the same for the purposes hereof and thereof, subject to such regulation or limitation as this act or such trust agreement may provide.

It shall be lawful for any bank or trust company within the Commonwealth to act as depository of the proceeds of bonds or notes, revenues or other money hereunder and to furnish such

indemnifying bonds or to pledge such security, if any, as may be required by the Commission. Any trust agreement entered into pursuant to this section may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual rights of action by any such holders. In addition to the foregoing, any such trust agreement may contain such other provisions as the Commission may deem reasonable and proper. All expenses incurred in carrying out the provisions of such trust agreement may be treated as part of the cost of operation of the housing bank and paid from the revenues or other funds pledged or assigned to the payment of the principal of and the premium, if any, and interest on the bonds or notes or from any other funds available to the housing bank. In addition to other security provided herein or otherwise by law, bonds or notes issued under this section may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the housing bank by any bank, trust company or other financial institution, within or without the Commonwealth, and the housing bank may pledge or assign any of its revenues as security for the reimbursement by the housing bank to the issuers of such letters or lines of credit, insurance or credit facilities of any payments made thereunder.

SECTION 4D. If at any time any principal or interest is due or about to come due on any bonds or notes of the housing bank to secure which the full faith and credit of the town of Nantucket or Nantucket county shall have been pledged and funds to pay the same are not available, the Commission shall certify to the town treasurer and selectmen of the town or to the county treasurer and county commissioners of the county, as appropriate, the amount required to meet such obligations and the town treasurer or the county treasurer shall thereupon pay over to the housing bank the amount so certified from any funds in the treasury. For the purpose of providing or restoring to the treasury the sums so paid over to the housing bank, the town treasurer, with the approval of the selectmen, is authorized to incur debt outside the town's debt limit and issue notes therefore for a period not exceeding two years and to renew or refund the same from time to time until the town shall have received from the housing bank sufficient funds to repay such notes and the interest thereon in full. Whenever the town or the county shall have been required to pay over any sums of money to the housing bank under this section, the housing bank shall be precluded from issuing any grants or purchasing, constructing or making improvements to land or housing, or issuing any of its bonds or notes for purposes other than repaying the town, until the housing bank shall have repaid the town in full for all sums paid to the housing bank hereunder, including interest on any notes issued for such purpose, unless the town shall have appropriated sufficient funds for such purpose at a town meeting.

SECTION 4E. Bonds and notes issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds and notes are hereby made securities that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 4F. Notwithstanding any of the provisions of this act or any recitals in any bonds or notes issued under this act, all such bonds and notes shall be deemed to be investment securities under the Uniform Commercial Code.

SECTION 4G. The Housing Bank's revenues and income will be used solely for the furtherance of its public purposes and shall be exempt from taxation. The Housing Bank and all its revenues, income and real and personal property used solely by the Housing Bank in furtherance of its public purposes from the date of acquisition thereof, shall be exempt from taxation and from betterments and special assessments and the Housing Bank shall not be required to pay any tax, excise or assessment to or for the Commonwealth or any of its political subdivisions. Bonds and notes issued by the Housing Bank, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the Commonwealth.

SECTION 4H. With authorization of an annual or special town meeting of the town of Nantucket as provided for in section 4C of this Act, bonds and notes may be issued under this act without obtaining the consent of any department, division, commission, board, bureau or agency of the town or county of Nantucket, except that the full faith and credit of the town or county of Nantucket shall not be pledged for the payment of such bonds or notes unless such pledge shall have been authorized by a two-thirds vote as provided in this Act, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefore by this act. The validity of and security for any bonds and notes issued by the housing bank shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

SECTION 5. The Nantucket Community Housing Bank shall be a funding agency only, but may acquire by purchase, lease or gift offices for its operation, and may enter into leasebacks, mortgages or other loans for this purpose. Upon receiving applications from eligible applicants in a competitive process which will include public notice of funding availability, and in a form prescribed by the commission, and upon compliance with the provisions of section 4A of this Act, the housing bank will provide funding for eligible community housing activities as defined below, while respecting special Nantucket habitats and rural character. The housing bank shall, wherever possible, give preference to (a) the reuse of existing buildings, and (b) construction of new buildings on previously developed sites.

Eligible community housing activities for receipt of funding shall include, but not be limited to, the following:

- (a) Purchase and rehabilitation of existing structures for rental or home ownership;
- (b) Construction of rental or home ownership housing and necessary on-site or off site infrastructure, including mixed use development;
- (c) Purchase of land, and any and all improvements including easements;
- (d) Down payment assistance, grants and soft second loans;
- (e) Rental assistance programs;
- (f) Modernization and capital improvements of existing rental and ownership housing;
- (g) Creation of apartments and other ancillary housing;
- (h) Housing counseling, predevelopment costs and technical assistance associated with creating community housing projects and programs; and
- (i) Mixed -use development projects.

SECTION 6. All housing units created by funding from a housing bank under this act shall be deed restricted in perpetuity for use as community housing as defined in section 1 of this act, except in cases when the housing bank commission determines that a deed restriction is not feasible, and except in cases when the housing bank commission makes a finding that such a deed restriction would delay, prevent or otherwise defeat the purpose of developing and making available to the public Community Housing.

SECTION 7A. The Housing Bank Commission shall meet its financial obligations by drawing upon a fund to be set up as a revolving or sinking account of the housing bank commission in the treasury of the Town of Nantucket. Deposits into the Nantucket Housing Fund shall include (a) funds appropriated, borrowed or transferred to be deposited into the fund by vote of the county commissioners of Nantucket county or of the town meeting; (b) voluntary contributions of money and other liquid assets to the fund; and (c) revenues from fees imposed upon the transfer of real property interests under section 9 occurring on Nantucket after the effective date of this act as set forth in section 15. Grants or gifts of money or other assets to the housing bank shall be subject to any restrictions or limitations imposed by the grantor or donor. All expenses lawfully incurred by the Housing Bank Commission in carrying out this act shall be evidenced by proper vouchers and shall be paid by the treasurer of the town of Nantucket only upon submission of warrants duly approved by the housing bank commission. The housing bank commission treasurer shall prudently invest available assets of the fund under the regulations and procedures adopted by the housing bank commission under clause (f) of section 4A, and all income from investments shall accrue to the fund.

SECTION 7B. The Housing Bank Commission is authorized to enter into one or more agreements with the Nantucket Land Bank Commission established by chapter 669 as amended of the acts and resolves of 1983 by which agreements the housing bank may delegate to the Nantucket Land Bank Commission the administration and management of collection of the fee described in section 9 of this act, including but not limited to the record keeping duties pursuant to section 8 of this act, the receipt of money pursuant to section 9 of this act, the processing of applications for exemptions pursuant to section 11 of this act or processing applications for refunds pursuant to section 10 of this act, the imposition of interest or penalties pursuant to section 12 of this act, and the sending of notices and conduct of hearings pursuant to section 13 of this act, and provide for compensation or reimbursement of costs incurred by such Nantucket Land Bank Commission from funds so collected.

SECTION 8. The housing bank commission shall keep a full and accurate account of its actions including a record of when, from or to whom, and on what account money has been paid or received under this act. These records shall be subject to examination by the director of accounts or the director's agent under section 45 of chapter 35 of the General Laws. There shall be an annual audit conducted by a duly recognized accounting firm, and a copy of that audit shall be distributed to the Board of Selectmen of the Town of Nantucket. However, schedules of beneficiaries of trusts, lists of stockholders of corporations, lists of partners, partnership agreements, tax returns, and other materials deemed by the Commission to be private to a particular entity or individual, which are filed with the Commission for the purposes of determining or fixing the amount of fee imposed by this Act for any transfer or for the

purpose of determining the existence of any exemption pursuant to this act shall not be public records for the purposes of section 10 of chapter 66 of the General Laws.

SECTION 9. There is hereby imposed a fee equal to one per cent of the purchase price upon the transfer of any interest in real property located within the Town of Nantucket. The fee shall be the liability of the seller of the real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing this fee shall not affect the liability of the seller. This fee shall be paid to the Nantucket Community Housing Bank Commission or its designee. Fees shall be accompanied by a copy of the deed or other instrument evidencing the transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the seller or the seller's legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed. The Housing Bank Commission, or its designee, shall promptly execute and issue a certificate stating that the appropriate fee has been paid or that the transfer is exempt from the fee and stating the basis for the exemption. The register of deeds for Nantucket county, and the assistant recorder for the registry district of Nantucket county, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, for any real property interest located in Nantucket unless this certificate is attached. Failure to comply with this requirement shall not affect the validity of any instrument. The Housing Bank commission shall deposit all fees received under this section with its treasurer as part of the fund established by section 7A. The fee imposed under this section shall be due at the time of transfer of the real property interest.

SECTION 10. At any time within seven days after the issuance of the certificate of payment of the fee imposed by section 9, the seller or the seller's legal representative may return the certificate to the Housing Bank Commission or its designee for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer has not been consummated. After receiving this certificate and affidavit, the housing bank commission shall in due course return the fee to the seller or the seller's legal representative.

SECTION 11. The following transfers of real property interests shall be exempt from the fee established by section 9. Except as otherwise provided, the seller shall have the burden of proof that any transfer is exempt under this section and any otherwise exempt transfer shall not be exempt in the event that such transfer (by itself or as part of a series of transfers) was made for the primary purpose of evading the fee imposed by Section 9.

(-a-) Transfers to the government of the United States , the commonwealth, and any of their instrumentalities, agencies or subdivisions, including but not limited to transfers to the Town of Nantucket, the County of Nantucket, and/or the Nantucket Land Bank Commission established pursuant to chapter 669 of the Acts of 1983 as amended or the Housing Bank established by this Act.

(-b-) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.

(-c-) Transfers made as gifts without consideration. In any proceeds to determine the amount of any fee due hereunder, it shall be presumed that any transfer for consideration of less than fair market value of the real property interests transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property

interests transferred and the amount of consideration claimed by the seller to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant, or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interests transferred, at the time of transfer.

(-d-) Transfer to the trustees of a trust in exchange for a beneficial interest received by the seller in such trust; distributions by the trustees of a trust to the beneficiaries of such trust.

(-e-) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.

(-f-) Transfers made in partition of land and improvements thereto, under chapter two hundred and forty-one of the General Laws.

(-g-) Transfers to any charitable organization as defined in clause Third of section five of chapter fifty-nine of the General Laws, or any religious organization, provided that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purposes.

(-h-) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.

(-i-) Transfers made to a corporation or partnership or limited liability company at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

(-j-) Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property (including real property interests and other property received) which is the same fraction of the total property of the transferor corporation as the fraction of the corporation's stock owned by the transferee prior to the transfer or (ii) with respect to a partnership or limited liability company, the transferee receives property (including real property interests and other property received) which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

(-k-) Transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law.

(-l-) Transfers of property consisting in part of real property interests situated in Nantucket County and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in Nantucket county; provided that the purchaser shall furnish the Commission with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.

(-m-) The first \$2 million of the sale price of any transfer or series of transfers of real property interests in a single parcel. Said exemption may be adjusted for inflation as determined tri-annually by vote of the majority of the Nantucket Community Housing Bank commission. For purposes of this subsection, "inflation" shall mean the increases, if any, in the total of prices paid for real property transfers year to year for real property within the Town of Nantucket.

(-n-) Transfers of minority interests in corporations, trusts, partnerships or limited liability companies which are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

SECTION 11A. To be consistent with the Nantucket Community Housing Bank Act, the Nantucket Islands Land Bank Act (being chapter 669 of the Acts of 1983, as amended by chapter 407 of the Acts of 1984, by chapter 202 of the Acts of 1985, by chapter 666 of the Acts of 1987, by chapter 392 of the Acts of 1991, by chapter 309 of the Acts of 1994, by chapter 370 of the Acts of 2002, and by chapter 130 of the Acts of 2006, referred to collectively as the "Land Bank Act") is hereby amended as follows:

(a) The definition of "Real property interest" appearing in Section 1 of the Land Bank Act shall be restated in its entirety to the following:

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under Massachusetts General Laws chapter 183A; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less than thirty years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

(b) Section 10A of the Land Bank Act is hereby repealed in its entirety.

(c) The following sentence shall be inserted at the end of the preamble to Section 12 of the Land Bank Act: "Any otherwise exempt transfer shall not be exempt in the event that such transfer (by itself or as part of a series of transfers) was made for the primary purpose of evading the fee imposed by Section 10."

(d) Section 12 (-i-) of the Land Bank Act shall be amended by deleting the portion thereof commencing with "provided, however, that such . . ." through the end of subsection (-i-), and the following shall be inserted in lieu thereof:

provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

(e) Section 12 (-j-) of the Land Bank Act shall be entirely restated as follows:

Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited

liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property (including real property interests and other property received) which is the same fraction of the total property of the transferor corporation as the fraction of the corporation's stock owned by the transferee prior to the transfer or (ii) with respect to a partnership or limited liability company, the transferee receives property (including real property interests and other property received) which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

(f) Delete from Section 12 (-m-) of the Land Bank Act the words "The first" from the beginning of the subsection, and capitalize the word "an", which becomes the first word of the subsection.

(g) Add new subsection (-n-) to Section 12 of the Land Bank Act, as follows:

(-n-) Transfers of minority interests in corporations, trusts, partnerships or limited liability companies which are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

(h) Add new subsection (-d-) to Section 14 of the Land Bank Act, as follows:

(-d-) If the Commission has determined that a fee is due by asserting the application of the evasion of fee doctrine described in Section 12 of this Act, then the transferee shall have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the transfer, or series of transfers, possessed both: (i) a valid, good faith business purpose other than avoidance of the fee set forth in Section 10 of this Act and (ii) economic substance apart from the asserted fee avoidance benefit. In all such cases the transferee shall also have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the asserted non-fee-avoidance business purpose is commensurate with the amount of the fee pursuant to Section 10 to be thereby avoided.

SECTION 12. A seller who fails to pay all or any portion of the fee established by section 9 on or before the time when the fee is due shall be liable for the following additional payments in addition to the fee:

(a) Interest. The seller shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to prime rate at the time of transfer plus 1 per cent per annum, adjusted each year in accordance with changes in prime rate.

(b) Penalties. Any person who, without fraud or willful intent to defeat or evade a fee imposed by section 9, fails to pay all or a portion of the fee within 30 days after the time of transfer, shall pay a penalty equal to five per cent of the outstanding fee as determined by the housing bank commission for each month or portion of a month that the fee is not paid in full, but in no event shall the amount of any penalty imposed under this paragraph exceed 25 per cent of the unpaid fee due at the time of transfer. Whenever the housing bank commission determines that all or a portion of a fee due under section 9 was unpaid due to fraud with intent to defeat or evade the fee, a penalty equal to the amount of the fee as determined by the housing bank commission shall be paid by the seller in addition to the fee.

SECTION 13A. (a) The Housing Bank Commission shall notify a seller by registered or certified mail of any failure to discharge in full the amount of the fee due under section 9 and any penalty or interest assessed. The Housing Bank Commission shall grant a hearing on the matter of the imposition of the fee, or of any interest or penalty assessed, if a petition

requesting a hearing is received by the Housing Bank Commission within 30 days after the mailing of the notice. If the Commission has determined that a fee is due by asserting the application of the evasion of fee doctrine described in section 11 of this Act, then the seller shall have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the transaction possessed both: (i) a valid, good faith business purposes other than avoidance of the fee set forth in section 9 of this Act and (ii) economic substance apart from the asserted fee avoidance benefit. In all such cases the seller shall also have the burden of demonstrating by clear and convincing evidence as determined by the commission that the asserted non-fee-avoidance business purpose is commensurate with the amount of the fee pursuant to section 9 to be thereby avoided. The Housing Bank Commission shall notify the seller in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within 15 days after the hearing. Any party aggrieved by a determination of the Housing Bank Commission concerning a deficiency, penalty or interest may, after payment of the deficiency, appeal to the district or superior court within 3 months after the mailing of notification by the Housing Bank Commission. Upon the failure to timely petition for a hearing, or appeal to the court, within the time limits established in this paragraph, the seller shall be bound by the terms of the notification, assessment or determination, and shall be barred from contesting the fee or any interest and penalty, as determined by the Housing Bank Commission. All decisions of these courts shall be subject to appeal. Every notice to be given under this section by the Housing Bank Commission shall be effective if mailed by certified or registered mail to the seller at any available legal address of the seller, or at the address stated in a recorded or registered instrument by virtue of which the seller holds any real property interest, the transfer of which gives rise to the fee which is the subject of the notice; and, if no address is stated or if the transfer is not evidenced by an instrument recorded or registered in the public records of Nantucket County, the notice shall be effective when mailed to the seller in care of any person appearing of record to have had a fee interest in the land at the time of the transfer, at the address of that person as set forth in an instrument recorded or registered in Nantucket County.

(b) All fees, penalties and interest required to be paid under this act shall constitute a personal debt of the seller and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the housing bank commission subject to chapter 260 of the General Laws.

(c) Sellers applying for an exemption under subsections (a) through (n) of section eleven shall be required at the time of application for exemption to execute an agreement legally binding on sellers and separately legally binding upon any Legal Representative of the sellers (1) assuming complete liability for any fee, plus interest and penalties if any, waived on account of an allowed exemption subsequently determined to have been invalid, and (2) submitting to the jurisdiction of the trial court of the commonwealth sitting in Nantucket County. Fees, plus interest and penalties if any, shall be calculated as of the date of the initial property transfer. Execution of the above-described agreement shall not be required of any mortgagee, pledge, purchaser or judgment creditor unless notice of the agreement has been recorded or filed by the Housing Bank Commission.

The Housing Bank Commission, without waiving any of its rights, may direct a civil action to be filed in the appropriate district or superior court division of the department of the trial court sitting in the Nantucket county to enforce the agreement of the housing bank commission under this section with respect to this liability or to subject any property of the delinquent seller, or in which the delinquent seller has any legal or beneficial right, title or interest, to the payment

of this liability. The Housing Bank Commission may issue a waiver or release of any agreement imposed by this section. Such waiver or release shall be conclusive evidence that the agreement is extinguished.

SECTION 13B. This act, being necessary for the welfare of the town and county of Nantucket and its inhabitants, shall be liberally construed to effect its purposes.

SECTION 14. Any time after five years from the effective date of this act, the town may dissolve the housing bank by vote of the majority of the town members at town meeting, but the fee imposed by section 9 shall continue to be imposed until all funding commitments, including repayment of any bonds or notes, have been paid in full, and the Nantucket housing bank shall continue in existence during this time for the sole purpose of collecting and administering these fees. Upon dissolution of the Nantucket housing bank, title to all funds and other properties held by the housing bank shall vest in the town of Nantucket after provision is made for payment of all bonds, notes and other obligations of the housing bank. The Nantucket housing bank commission shall not submit an amendment of this act to the general court unless the amendment has been approved by the affirmative vote of a majority of the voters at a town meeting.

SECTION 15. Acceptance of this act shall be by the affirmative vote of a majority of the voters at any regular or special town election, or a state election, at which the question of acceptance has been placed on the ballot. This act shall become effective on the date on which acceptance by the town has been effected.

Or, to take any other action related thereto.

(Board of Selectmen)

NOTE: The above home rule petition was approved as Article 22 of the October 23, 2006 Special Town Meeting, Article 82 of the 2008 Annual Town Meeting and Article 62 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 61

(Home Rule Petition: Nantucket Islands Land Bank Act Amendment)

To see if the Town will vote to request its representatives in the General Court to introduce legislation seeking a special act set forth below and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in perfecting the language of this proposed legislation in order to secure passage, such legislation to read substantially as follows:

AN ACT TO FURTHER CLARIFY THE NANTUCKET ISLANDS LAND BANK ACT REGARDING REAL PROPERTY INTERESTS SUBJECT TO THE LAND BANK ACT'S TRANSFER FEE

SECTION 1. The Nantucket Islands Land Bank Act (being chapter 669 of the Acts of 1983, as amended by chapter 407 of the Acts of 1984, by chapter 202 of the Acts of 1985, by chapter 666 of the Acts of 1987, by chapter 392 of the Acts of 1991, by chapter 309 of the Acts of 1994, by chapter 370 of the Acts of 2002, and by chapter 130 of the Acts of 2006, referred to collectively as the "Land Bank Act") is hereby amended as follows:

(a) The definition of "Real property interest" appearing in Section 1 of the Land Bank Act shall be restated in its entirety to the following:

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under Massachusetts General Laws chapter 183A; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less than thirty years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

(b) Section 10A of the Land Bank Act is hereby repealed in its entirety.

(c) The following sentence shall be inserted at the end of the preamble to Section 12 of the Land Bank Act: "Any otherwise exempt transfer shall not be exempt in the event that such transfer (by itself or as part of a series of transfers) was made for the primary purpose of evading the fee imposed by Section 10."

(d) Section 12 (-i-) of the Land Bank Act shall be amended by deleting the portion thereof commencing with "provided, however, that such . . ." through the end of subsection (-i-), and the following shall be inserted in lieu thereof:

provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (ii) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

(e) Section 12 (-j-) of the Land Bank Act shall be entirely restated as follows:

Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property (including real property interests and other property received)

which is the same fraction of the total property of the transferor corporation as the fraction of the corporation's stock owned by the transferee prior to the transfer or (ii) with respect to a partnership or limited liability company, the transferee receives property (including real property interests and other property received) which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

(f) Delete from Section 12 (-m-) of the Land Bank Act the words "The first" from the beginning of the subsection, and capitalize the word "an", which becomes the first word of the subsection.

(g) Add new subsection (-n-) to Section 12 of the Land Bank Act, as follows:

(-n-) Transfers of minority interests in corporations, trusts, partnerships or limited liability companies which are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

(h) Add new subsection (-d-) to Section 14 of the Land Bank Act, as follows:

(-d-) If the Commission has determined that a fee is due by asserting the application of the evasion of fee doctrine described in Section 12 of this Act, then the transferee shall have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the transfer, or series of transfers, possessed both: (i) a valid, good faith business purpose other than avoidance of the fee set forth in Section 10 of this Act and (ii) economic substance apart from the asserted fee avoidance benefit. In all such cases the transferee shall also have the burden of demonstrating by clear and convincing evidence as determined by the Commission that the asserted non-fee-avoidance business purpose is commensurate with the amount of the fee pursuant to Section 10 to be thereby avoided.

Or, to take any other action related thereto.

(Board of Selectmen)

NOTE: The above home rule petition was approved as Article 61 of the 2007 Annual Town Meeting, Article 86 of the 2008 Annual Town Meeting and Article 63 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 62

(Home Rule Petition: Harbor and Shellfish Advisory Board)

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation set forth below; provided, however, that the General Court may with the approval of the Board of Selectmen, make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage; or to take any other action related thereto.

AN ACT EXEMPTING THE HARBOR AND SHELLFISH ADVISORY BOARD MEMBERSHIP FROM CONFLICT OF INTEREST REGARDING DISCUSSION OF SHELLFISH LICENSING

Section 1. The second paragraph of Chapter 465 of the Acts of 1976 ("An Act Establishing a Harbor and Shellfish Advisory Board in the Town of Nantucket") as amended by Chapter 270 of the Acts of 1979 ("An Act Providing for the Filling of Vacancies on the Harbor and Shellfish Advisory Board of the Town of Nantucket"), is hereby amended by adding the following new sentence at the end of the existing text:

"It is the intent of the establishment of the Nantucket Harbor and Shellfish Advisory Board to provide an advisory role for commercial fishermen and those who make a living from the sea, to the Nantucket Board of Selectmen, therefore to encourage such persons to participate in this publicly elected advisory board, the members of the Board shall be exempt from subsections (a) and (c) of section 17 of chapter 268A of the General Laws and from section 19(a) when participating in the particular matter of providing advice and recommendations to the Board of Selectmen regarding shellfish fishing, harvesting, licensing and fishery standards."

Section 2. This act shall take effect upon its passage.

(Board of Selectmen)

NOTE: The above home rule petition was approved as Article 66 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 63

(Home Rule Petition: Ocean Management Planning Process)

To see if the Town will vote to petition the General Court to enact special legislation for the town of Nantucket to amend the Nantucket Planning & Economic Development Act as set forth below, that the General Court be authorized, with the consent of the Board of Selectmen, to make constructive changes in the text thereto to accomplish the public purposes thereof, as follows:

An Act Amending the Responsibilities of the Nantucket Planning & Economic Development Commission

SECTION 1. Chapter 561 of the Acts of 1973, as amended by chapter 98 of the Acts of 1981 and by Chapter 458 of the Acts of 1991, is hereby further amended by inserting the following new Sections immediately following the existing text of section 4 as follows:

Section 4A. The Commission shall be one of the Commonwealth's regional planning agencies.

Section 4B. Certain developments of regional economic impact as hereinafter defined proposed to be constructed within the limits of the town of Nantucket shall not be constructed within such town without a Development of Regional Economic Impact Permit ("DREIP")

therefore issued by the Nantucket Planning & Economic Development Commission created by chapter 561 of the Acts of 1973 as amended, as a result of a majority vote of the membership thereof. A DREIP shall be in addition to and not a substitute for, nor in any way detract from, any permit, license, approval, or other permission issued by the Town of Nantucket or any other applicable governmental authority.

Section 4C. Developments of regional economic impact shall be those large-scale commercial and industrial developments that have the potential to impact the appearance, society and economy of the town of Nantucket that exceed any one of the following minimum thresholds:

- (a) 30,000 gross square feet of interior space in a single building or on a single lot for retail, manufacturing, or industrial use;*
- (b) 40,000 square feet of exterior storage, exterior industrial use;*
- (c) Alterations to more than 5 acres of shore, beach, seacoast, pond, marsh, dune, woodland, wetland, endangered species habitat, aquifer, or other resource area for commercial or industrial use; or*
- (d) Any commercial or industrial use that requires more than 100 parking spaces as determined by the zoning bylaw of the Town of Nantucket.*

Section 4D. The Commission shall by majority vote adopt rules and regulations for the issuance of a DREIP after a public hearing, with a minimum of fourteen days prior notice to the Town of Nantucket Board of Selectmen of the time and place of such hearing; provided however, such rules and regulations shall not take effect except upon an affirmative vote of the Town of Nantucket at a duly scheduled Town Meeting. Such rules and regulations shall include specific time lines for action by the Commission (including without limitation that the Commission shall file a written decision with the Town Clerk within 180 days of the Commission's receipt of a complete application for the issuance of a DREIP), and standards and criteria to assess visual and environmental impacts, employment characteristics and requirements for municipal or regional services including solid waste disposal, water, sewer, tourist services and facilities, transportation and education. Such rules and regulations shall provide that the Commission shall issue a DREIP upon making the following findings:

- (a) The probable benefit of the proposed project will exceed the probable detriment;*
- (b) The proposed project is in compliance with any master plan adopted by the community pursuant to Chapter 41-81D of the general laws of the Commonwealth, or other authority; and*
- (c) There are no practical, feasible or practicable options or alternatives that might otherwise be employed due to unique physical, social or economic conditions related to Nantucket's island location.*

SECTION 2. This Act shall take effect upon passage.

Or, to take any other action as related thereto.

(Board of Selectmen for Nantucket Planning and Economic Development Commission)

NOTE: The above home rule petition was approved as Article 67 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 64

(Home Rule Petition: Separate Board of Health)

To see if the Town will vote to petition the General Court to enact a special act of the Town of Nantucket to establish an appointed separate Board of Health for the Town, the text of which act is set forth below, and that the General Court be authorized, with the consent of the Board of Selectmen, to make constructive changes in the text thereof to accomplish the public purposes thereof, as follows:

An Act Establishing an Appointed Board of Health for the Town of Nantucket

Section 1. Notwithstanding any law to the contrary, there is hereby established for the Town of Nantucket a five member Board of Health separate from any other board or commission of the town, having all the powers, duties and responsibilities granted to Boards of Health pursuant to the general laws of the Commonwealth.

Section 2. Three of the five members of the Board established by section 1 of this Act shall be, to the extent coming forward ready willing and able or otherwise available to serve, health care professionals or environmental professionals. To the extent that such health care professionals or environmental professionals are not available to serve, then members of the general public of residents of the town may be appointed for these positions. These three members shall be appointed by the Board of Selectmen for three year terms, with the initial appointments after the effective date of this Act to be one member for a three year term, one member for a two year term, and one member for a one year term, thereafter upon expiration of these initial terms, the successors shall each be appointed for three years.

Section 3. One of the five members shall be a member of the Board of Selectmen designated by the Board of Selectmen for an initial appointment to a one year term and thereafter each successor member of the Board of Selectmen for one year terms.

Section 4. One of the five members shall be appointed by the Board of Selectmen from among the general public consisting of the residents of the town, for a term of three years.

Section 5. Any vacancy arising on the Board of Health created by this Act shall be filled in the same manner as the appointments thereto described in sections 2, 3, and 4 of this Act.

Section 6. Except as otherwise provided by this Act, the Charter of the Town of Nantucket (Chapter 289 of the Acts of 1996, as the same may have been amended pursuant to the terms thereof) shall otherwise apply to the Board of Health created by this Act.

Section 7. This act shall take effect on passage.

(Board of Selectmen)

NOTE: The above home rule petition was approved as Article 56 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 65

(Home Rule Petition: Pay for William J. Higgins)

To see if the Town will vote to petition the General Court to enact special legislation for the town of Nantucket as set forth below, that the General Court be authorized, with the consent of the Board of Selectmen, to make constructive changes in the text thereto to accomplish the public purposes thereof, as follows:

An Act Relative to William J. Higgins, An Employee of the Town of Nantucket.

Section 1. Notwithstanding any general or special law or rule or regulation to the contrary, the Town of Nantucket, MA is authorized, subject to appropriation, to pay William J. Higgins, an employee of the Town of Nantucket who was granted a military leave of absence to serve in support of Operation Enduring Freedom after September 11, 2001, the amount of \$29,539.41. This amount constitutes the regular base salary that William J. Higgins, would have received as a town of Nantucket employee during his military leave reduced by the amount he received from the United States as base pay for military service performed during the same pay period.

Section 2. This act shall take effect upon its passage.

(Board of Selectmen for William J. Higgins)

NOTE: The above home rule petition was approved as Article 69 of the 2009 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2010, will expire unless renewed by a confirmatory town meeting vote.

ARTICLE 66

(Home Rule Petition: Expansion of Room Occupancy Tax to Vacation Rentals)

To see if the Town will vote to petition the General Court for enactment of a Home Rule special act and to request the Town's representatives to the General Court to introduce a Special Act as set forth below, and further to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage, and to take any other action related thereto:

AN ACT APPROVING THE APPLICATION BY THE TOWN OF NANTUCKET OF THE LOCAL OPTION ROOM OCCUPANCY EXCISE TO SEASONAL RENTAL PROPERTIES IN THE TOWN OF NANTUCKET

Section 1. Notwithstanding the provisions of any general or special law to the contrary, in addition to the authority to impose a local excise tax upon any transfer of occupancy of any room or rooms as may be set forth in and authorized by general law chapter 64G, section 3A or other law, as the same may be amended from time to time, the town of Nantucket shall, commencing on the first day of the fiscal year that begins after the effective date of this Act, be authorized to impose a local excise tax upon the transfer of occupancy of any room in a seasonal rental property or other transient accommodations located within said town by any

operator at the rate of up to but not exceeding six (6) percent of the total amount of rent of each such occupancy.

Section 2. For the purposes of this chapter, all terms used herein shall, unless the context requires otherwise, have the same meanings as set forth in general law chapter 64G, section 1 and as follows:

“Occupancy”, the use or possession, or the right to the use or possession, of any room or rooms in a bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel, seasonal rental property or other transient accommodation designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment or bed and breakfast home, accompanying the use and possession of such room or rooms, for a period of ninety consecutive calendar days or less, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

“Seasonal rental property or other transient accommodations” shall mean any bed and breakfast home, as defined by general law chapter 64G, section 1 and any residential or commercial dwelling, dwelling unit or part thereof, unit of a condominium as defined by general law chapter 183A, or time-share as defined by general law chapter 183B, used for the lodging of guests or invitees in exchange for rent.

Section 3. No excise shall be imposed upon for the transfer of occupancy of any room in a seasonal rental property or other transient accommodations if the total amount of rent is less than fifteen dollars per day or its equivalent or if the accommodation, other than a bed and breakfast home, is exempt under the provisions of chapter 64G, section 2.

Section 4. All operators of seasonal rental property or other transient accommodations shall be responsible for assessing, collecting reporting and paying such local excise tax as set forth in general law chapter 64G, sections 3, 4, 5, 6 and 7A and shall be liable in the same manners as operators in general law chapter 64G, section 7B.

Section 5. This act shall take effect upon its passage.

(Board of Selectmen)

ARTICLE 67

(Home Rule Petition: Conveyance of Land from County to Town)

To see if the Town will vote to petition the General Court to enact a special act of the Town of Nantucket the text of which act is set forth below, and that the General Court be authorized, with the consent of the Board of Selectmen, to make constructive changes in the text thereof to accomplish the public purposes thereof, as follows:

An Act Approving the Conveyance of Property by the County of Nantucket

Section 1. The County of Nantucket is hereby authorized to convey a parcel containing 18,400 square feet of land bounded by the easterly sideline of Nonantum Avenue; northerly by the southerly lot line of Assessor Map 88 Parcel 49, the southerly sideline of a portion of former Clifford Street and the southerly lot line of Assessor Map 88 Parcels 50 and 51; the eastern sideline of former Harriet Street (f.k.a Prospect Street) and southerly by the northerly lot line of Assessor Map 88 Parcel 47, the northern sideline of a portion of Clifford Street between former Nonantum Avenue and the Atlantic Ocean and Assessor Map 88 Parcel 48, owned by the County of Nantucket to the Town of Nantucket.

Section 2. A majority of the voters at an Annual or Special Town Meeting shall approve acceptance of any and all transfers authorized in Section 1, prior to such conveyance taking effect.

Section 3. The provision of Chapter 30B of the General Laws and any rights of first refusal in the Commonwealth under the provisions of Section 14 of Chapter 34 of the General Laws shall not be applicable to any conveyance authorized hereunder.

Section 4. This Act shall take effect upon passage.

And, to take any other action as related thereto.

(Board of Selectmen)

ARTICLE 68

(Home Rule Petition: An Act Regulating the Content and Application of Fertilizer Used in the Town of Nantucket)

To see if the Town will vote to request its representatives in the General Court to introduce legislation seeking a special act as set forth below and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in perfecting the language of this proposed legislation in order to secure passage, such legislation to read substantially as follows:

AN ACT REGULATING THE CONTENT AND APPLICATION OF FERTILIZER USED IN THE TOWN OF NANTUCKET

SECTION 1. There is a sound scientific basis to conclude that nitrogen and phosphorus in manufactured fertilizers are contaminants that negatively affect water-bodies when present in excessive amounts, contributing to undesirable algae and aquatic plant growth, known as "eutrophication".

SECTION 2. Excessive amounts of both nitrogen and phosphorus discharged into the Nantucket and Madaket Harbors watershed significantly decrease the habitat value of the estuarine ecosystem, especially for hard clams, bay scallops and other species.

SECTION 3. The Nantucket and Madaket Harbors and the surrounding coastal waters are essential components of the recreation and tourism industry in the Town of Nantucket.

SECTION 4. Applying slow-release nitrogen to turf maintains healthy turf growth while decreasing contamination to groundwater.

SECTION 5. Applying phosphorus to turf only in situations in which a soil test indicates the need to do so is a sound management practice and can decrease the nutrient load to Nantucket and Madaket Harbors and freshwater ponds in the Town of Nantucket.

SECTION 6. Turf does not effectively utilize nitrogen and phosphorus during periods when the soil is frozen or grass is dormant, allowing nutrients to run off into Nantucket's Harbors and ponds in increased amounts.

SECTION 7. Heavy precipitation and snowmelt greatly increase the amount of nitrogen and phosphorus that run off into adjacent water-bodies.

SECTION 8. It is necessary to regulate in the Town of Nantucket the use of fertilizer that contains phosphorus and high percentages of fast-acting nitrogen in order to improve water quality.

SECTION 9. It is imperative that restrictions on the amount of nitrogen and phosphorus discharged into the Nantucket and Madaket Harbors watershed be imposed so as to protect the integrity of Nantucket's waters and ponds for present and future generations.

SECTION 10. Definitions

For the purposes of this Act, the following words shall have the following meanings unless the context clearly indicates a different meaning:

"Applicator" means any person who applies fertilizer to turf.

"Fast-acting nitrogen" means any water-soluble nitrogen that is immediately available to turf upon application.

"Fertilize, fertilizing or fertilization" means the act of applying fertilizer to turf.

"Fertilizer" means a substance that enriches the soil with elements essential for turf growth, such as nitrogen, phosphorus or other substances.

"Impervious surface" means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

"Landscape professional" means a person who, in exchange for money, goods, services or other consideration, applies fertilizer to turf.

"Landscaping" means establishment by sod or seeding, renovation, maintenance, fertilization or pest management of turf.

“Slow-release, controlled-release, timed-release, slowly available, or water-insoluble nitrogen” means nitrogen in a form that delays its availability for plant uptake and use after application and is not rapidly available to turf.

“Soil test” means a technical analysis of soil conducted by an accredited soil-testing laboratory following the protocol for such a test established by University of Massachusetts Cooperative Research Extension.

“Turf” means grass-covered soil held together by the roots of the grass, also known as “sod” or “lawn.”

"Water-bodies" includes, but is not limited to, streams, including intermittent streams, creeks, rivers, freshwater and tidal wetlands, ponds, lakes, marine waters, canals, lagoons, and estuaries within the Town of Nantucket, including all waters defined in Massachusetts General Laws Chapter 131, Section 40 and Town of Nantucket Code Section 136.

“Weed and feed” means any product that, in combination with fertilizer, contains weed killer, defoliant, crabgrass preventer, or any other chemical for restricting the growth of plants other than turf.

SECTION 11. Prohibited Conduct

A. Applicators shall not:

1. apply fertilizer immediately before or during heavy rainfall, such as but not limited to, thunderstorms, hurricanes or north eastern storms or when the soil is saturated due to intense or extended rainfall.
2. apply fertilizer between December 1 and April 1 of any calendar year.
3. apply, spill or deposit fertilizer on any impervious surface and fail to remove the applied, spilled or deposited fertilizer immediately.
4. apply fertilizer closer than twenty five-feet to water-bodies.
5. deposit grass clippings, leaves, or any other vegetative debris into water-bodies, retention and detention areas, drainage ditches or storm water drains, or onto impervious surfaces such as, but not limited to, roadways and sidewalks, except during scheduled clean up programs.

SECTION 12. Fertilizer Content and Application Requirements for Applicators

A. The following restrictions shall apply to the content of fertilizer to be applied to turf:

1. An applicator shall not apply any fertilizer to turf unless the fertilizer contains a minimum of 70% slow-release nitrogen as the nitrogen additive.

2. An applicator shall not apply fertilizer that contains phosphorus, unless a soil test indicates a phosphorus deficiency.

3. Any fertilizer applied to soil with a demonstrated phosphorus deficiency shall comply with the recommendations of the Northeast Organic Farmers Association Standards for Organic Land Care.

B. Fertilizer application shall not exceed the manufacturer's recommended rate.

C. The above-referenced application requirements shall apply without limitation to the application of pesticide and fertilizer mixtures, including but not limited to, "weed and feed" products.

SECTION 13. Exemptions

A. The following activities shall be exempt from Section 12 of this Act:

1. Application of phosphorus when:

a. Establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the Northeast Organic Farmers Association Standards for Organic Land Care.

b. Re-establishing or repairing turf after substantial damage;

2. Use of reclaimed water for irrigation, provided it is not used within twenty-feet of any water-body.

3. Application of fertilizer for agricultural and horticultural uses, including sod farms.

SECTION 14. Severability Clause

Should any section, part or provision of this Act be deemed invalid or unconstitutional, such decision shall not affect the validity of the remaining terms of this Act as a whole or any part thereof, other than the section, part or provision held invalid or unconstitutional.

Section 15. Effective Date

This Act shall take effect on January 1, 2011.

(Board of Selectmen for Harbor Plan Implementation Committee)

ARTICLE 69

(Home Rule Petition: Nantucket Sewer Act Amendment)

To see if the Town will vote to petition the General Court for enactment of a special act for the Town of Nantucket, and to request the Town's representatives in the General Court to introduce legislation seeking a special act set forth below, and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in perfecting the language of this proposed legislation in order to secure passage, such legislation to read substantially as follows:

An Act Amending the Authority of the Town of Nantucket Sewer Commission

Section 1. Chapter 396 of the Acts of 2008 ("An Act authorizing the establishment of the Nantucket Sewer Commission and Sewer Districts in the Town of Nantucket") is hereby amended by adding the following new section !A, stating as follows:

Section 1A: the Nantucket Sewer Commission described in section 3 of this Act shall be authorized to require that use of and connection to the common sewers, treatment plants, collection systems and other works be mandatory and compulsory upon some portion or all of the owners and occupants of all estates and buildings embraced within the sewer districts established in accordance with this Act at such times as may be determined by said Sewer Commission.

Section 2. This Act shall take effect upon passage.

Or take any other action related thereto.

(Board of Selectmen)

ARTICLE 70

(Home Rule Petition: Establishing a Cemetery Commission for the Town of Nantucket)

To see if the Town will vote to request its representatives in the General Court to introduce legislation seeking a special act set forth below and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in perfecting the language of this proposed legislation in order to secure passage, such legislation to read substantially as follows:

AN ACT ESTABLISHING A SEPARATE CEMETERY COMMISSION FOR THE TOWN OF NANTUCKET

SECTION 1. For the purposes of this act, the words and phrases set forth in this section shall have the following meanings:

The Board of Cemetery Commissioners of the Town of Nantucket shall consist of five persons appointed by the Board of Selectmen. Two Commissioners shall be appointed for three years, one Commissioner shall be appointed for two years and two Commissioners shall be appointed for one year. Thereafter, the terms shall be appointed for three years.

The Cemetery Commission shall meet from time to time and no less than annually, and organize by the choice of its members a Chairman, a Vice Chairman and a Secretary. It shall be the duty of the Secretary to keep a record of the doings, receipts and expenditures of the Cemetery Commission and render a specific report to be filed with the Town Clerk and the Board of Selectmen on or about July 15, to be printed in the Annual Town Report.

SECTION 2. Duties of the Cemetery Commission.

- A. The Cemetery Commission shall have full charge of all of the public cemeteries of the Town, to lay out the same into lots, to execute and deliver deeds therefore, and to erect all necessary signs, fences, buildings and other structures in or about the same, at an expense not to exceed, in any case, the amount of the funds at its disposal.
- B. The Cemetery Commission shall direct the expenditures of all general cemetery funds in the cemetery account and of all specific appropriations, unless otherwise ordered by the Town, and the income of all trust funds held by the Town for cemetery purposes, conforming to the directions of the depositor.
- C. The Cemetery Commission shall keep a complete record of all sales of lots in the public cemeteries of the Town and the deeds thereof, together with the names of the deceased and the location of the graves. True copies of all such deeds, names, and grave locations shall be on file with the Town Clerk.

SECTION 3. Authority to make rules and regulations.

The Cemetery Commissioners, with the approval of the Board of Selectmen, are hereby authorized and empowered to make changes to cemetery rules and regulations not contrary to law with regard to the use of the Town cemeteries, and said rules and regulations shall be on file with the Town Clerk.

SECTION 4. This act, being necessary for the welfare of the town and county of Nantucket and its inhabitants, shall be liberally construed to effect its purposes.

SECTION 5. This act shall become effective on the date passed by the Legislature, or approved by the Governor.

(Catherine Flanagan Stover, Cemetery Commission Workgroup Chair, et al)

ARTICLE 71

(Acceptance of Massachusetts General Law: Other Post-employment Benefits Liability Trust Fund)

To see if the Town will vote to accept G.L. Ch. 32B, s. 20 the provisions of which read substantially as follows:

A city, town, district, county or municipal lighting plant that accepts this section, may establish a separate fund, to be known as an Other Post Employment Benefits Liability Trust Fund, and a funding schedule for the fund. The schedule and any future updates shall be designed,

consistent with standards issued by the Governmental Accounting Standards Board, to reduce the unfunded actuarial liability of health care and other post-employment benefits to zero as of an actuarially acceptable period of years and to meet the normal cost of all such future benefits for which the governmental unit is obligated. The schedule and any future updates shall be: (i) developed by an actuary retained by a municipal lighting plant or any other governmental unit and triennially reviewed by the board for a municipal lighting plant or by the chief executive officer of a governmental unit; and (ii) reviewed and approved by the actuary in the public employee retirement administration commission.

The board of a municipal lighting plant or the legislative body of any other governmental unit may appropriate amounts recommended by the schedule to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. 1395w-132 may be added to and become part of the fund.

The custodian of the fund shall be: (i) a designee appointed by the board of a municipal lighting plant; or (ii) the treasurer of any other governmental unit. Funds shall be invested and reinvested by the custodian consistent with the prudent investor rule set forth in chapter 203C.

This section may be accepted in a city having a Plan D or Plan E charter by vote of the city council; in any other city by vote of the city council and approval of the mayor; in a town by vote of the town at a town meeting; in a district by vote of the governing board; in a municipal lighting plant by vote of the board; and in a county by vote of the county commissioners.

(Board of Selectmen)

ARTICLE 72

(Real Estate Acquisition: Pine Street, Siasconset)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee or lesser interests in all or any portions of Pine Street in Siasconset, located between the southeasterly sideline of Low Beach Road and the northwesterly sideline of Town-owned property known as Town Assessor Map 74, Parcel 73, together with any public and private rights of passage, for public ways and/or general municipal purposes; to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 73

(Real Estate Disposition: Pine Street, Siasconset)

To see if the Town will vote to authorize the Board of Selectmen to convey sell or otherwise dispose of the fee or lesser interests in all or any portions of land formerly known as Pine Street in Siasconset, located between the southeasterly sideline of Low Beach Road and

the northwesterly sideline of Town-owned property known as Town Assessor Map 74, Parcel 73, subject to Massachusetts General Law c. 30B and guidelines established under the “Nantucket Yard Sales” program; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 74

(Real Estate Acquisition: Connections to Siasconset Bluffwalk)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee or lesser interests in all or any portions of those certain rights of way identified below, together with any public and private rights of passage, for public ways and/or general municipal purposes:

(I) Six ways in Siasconset located between the easterly sideline of Baxter Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

- Rosaly Lane;
- Callender Lane;
- Frazer Lane;
- Ballantine Lane;
- Wilson Lane; and
- Anne’s Lane (sometimes also known as Ann’s Lane); and

(II) Three unnamed ways in Siasconset located between the easterly sideline of Baxter Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

- Unnamed way located on and between the property at 73 Baxter Road known as Town Assessor Map 49, Parcel 27 and the property at 71 Baxter Road known as Town Assessor Map 49, Parcel 26.1;
- Unnamed way located on and between the property at 67 Baxter Road known as Town Assessor Map 49, Parcel 24 and the property at 65 Baxter Road known as Town Assessor Map 49, Parcel 23;
- Unnamed way located on and between the property at 63 Baxter Road known as Town Assessor Map 49, Parcel 22 and the property at 61 Baxter Road known as Town Assessor Map 49, Parcel 21; and

(III) Nosegay Lane between the westerly sideline of Sankaty Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9; and

(IV) One unnamed way in Siasconset located between the easterly sideline of Baxter Road and the easterly sideline of a footpath known as Siasconset “Bluffwalk” located on and/or between the property at 55 Baxter Road known as Town Assessor Map 49, Parcel 18 and the property at 53 Baxter Road known as Town Assessor Map 49, Parcel 17; to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and to take any other actions related thereto.

(Board of Selectmen)

ARTICLE 75

(Real Estate Conveyances: Siasconset Bluffwalk)

To see if the Town will vote to authorize the Board of Selectmen to convey sell or otherwise dispose of the fee or lesser interests in all or any portions of land described below, subject to Massachusetts General Law, c. 30B and guidelines established under the “Nantucket Yard Sales” program:

(I) Six ways in Siasconset located easterly of the easterly sideline of Baxter Road to the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

- Rosaly Lane;
- Callender Lane;
- Frazer Lane;
- Ballantine Lane;
- Wilson Lane; and
- Anne’s Lane (sometimes known as Ann’s Lane); and

(II) Three unnamed ways in Siasconset located between the easterly sideline of Baxter Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9 as follows:

- Unnamed way located on and between the property at 73 Baxter Road known as Town Assessor Map 49, Parcel 27 and the property at 71 Baxter Road known as Town Assessor Map 49, Parcel 26.1;
- Unnamed way located on and between the property at 67 Baxter Road known as Town Assessor Map 49, Parcel 24 and the property at 65 Baxter Road known as Town Assessor Map 49, Parcel 23;
- Unnamed way located on and between the property at 63 Baxter Road known as Town Assessor Map 49, Parcel 22 and the property at 61 Baxter Road known as Town Assessor Map 49, Parcel 21; and

(III) Nosegay Lane between the westerly sideline of Sankaty Road and the westerly sideline of Town-owned property known as Town Assessor Map 49, Parcel 9; and

(IV) One unnamed way in Siasconset located between the easterly sideline of Baxter Road and the easterly sideline of a footpath known as Siasconset “Bluffwalk” located on and/or between the property at 55 Baxter Road known as Town Assessor Map 49, Parcel 18 and the property at 53 Baxter Road known as Town Assessor Map 49, Parcel 17; and to take any other actions related thereto.

(Board of Selectmen)

ARTICLE 76

(Real Estate Acquisition: "Paper" Streets in Surfside)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee or lesser interests in all or any portions of twenty (20) unconstructed rights of way in the Surfside area of Nantucket known as Surfside South and identified below, together with any public and private rights of passage, for public ways and/or general municipal purposes:

- Waverly, Mount Vernon, Harriet (formerly known as Prospect) and Hawthorne Streets between the northerly sideline of Nobadeer Avenue and the southerly sideline of Okorwaw Avenue (excluding any portion of Weweeder, Pochick and Pocomo Avenues and Boulevarde);
- Central Street between the northerly sideline of Boulevarde and the southerly sideline of Okorwaw Avenue (excluding any portion of Pochick and Pocomo Avenues);
- Clifford Street between the northerly sideline of Pochick Avenue to the southerly sideline of Pocomo Avenue;
- Irving Street between the northerly sideline of Pochick Avenue and the southerly sideline of Okorwaw Avenue (excluding any portion of Pocomo Avenue);
- Myles Standish (formerly known as Shimmo) and Plum Streets between the northerly sideline of Weweeder Avenue and the southerly sideline of Pochick Avenue;
- Masquetuck Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Pochick Avenue (excluding any portion of Nobadeer and Weweeder Avenues);
- Holly Street between the northerly sideline of Weweeder Avenue and a line 200 feet south and parallel to the southerly sideline of Pochick Avenue;
- Woodbine Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nobadeer Avenue);
- Poplar Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Nobadeer Avenue;
- Laurel Street between the northeasterly sideline of Atlantic Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nonantum and Nobadeer Avenues and between the northerly sideline of Masaquet Street and the southerly sideline of Mequash Avenue;
- School Street between the northeasterly sideline of Atlantic Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nobadeer Avenue) and between the northerly sideline of Pochick Avenue and the southerly sideline of Mequash Avenue (excluding any portion of Masaquet Avenue);
- Copeland Street between the northerly sideline of Masaquet Street and the southerly sideline of Mequash Avenue;
- Nobadeer Avenue between the easterly sideline of Surfside Road (formerly known as Myrtle Street) and the westerly sideline of Dunham Street (excluding any portions of Naushon Way (formerly known as Cherry Street) Plum Street, Holly Street, Pequot Street (formerly known as Orange Street), Uncatena Street (formerly known as Wannacommet Street), and Myles Standish Street (formerly known as Shimmo Street);

- Mequash Avenue: Between the easterly sideline of Copeland Street and the westerly sideline of Surfside Road (formerly known as Myrtle Street) and between the easterly sideline of Surfside Road (formerly known as Myrtle Street) and the westerly sideline of Naushon Way (formerly known as Cherry Street);
- Pocomo Avenue between the easterly sideline of Assessor Map 79, Parcel 27 to the easterly sideline of Central Street and from the westerly sideline of Hawthorne Street to the easterly sideline of Adams Street;
- Adams Street between the northern sideline of Weweeder Avenue and the southerly sideline of Pocomo Avenue (excluding any portion of Pochick Avenue);

to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and to take any other actions related thereto.

(Board of Selectmen)

ARTICLE 77

(Real Estate Conveyances: “Paper” Streets, Surfside)

To see if the Town will vote to authorize the Board of Selectmen to convey, sell or otherwise dispose of the fee title or lesser interests in all or any portions of land in the Surfside area of Nantucket known as Surfside South and identified below, subject to Massachusetts General Law c. 30B and guidelines established under the “Nantucket Yard Sales” program:

- Waverly, Mount Vernon, Harriet (formerly known as Prospect) and Hawthorne Streets between the northerly sideline of Nobadeer Avenue and the southerly sideline of Okorwaw Avenue (excluding any portion of Weweeder, Pochick and Pocomo Avenues and Boulevard);
- Central Street between the northerly sideline of Boulevard and the southerly sideline of Okorwaw Avenue (excluding any portion of Pochick and Pocomo Avenues);
- Clifford Street between the northerly sideline of Pochick Avenue to the southerly sideline of Pocomo Avenue;
- Irving Street between the northerly sideline of Pochick Avenue and the southerly sideline of Okorwaw Avenue (excluding any portion of Pocomo Avenue);
- Myles Standish (formerly known as Shimmo) and Plum Streets between the northerly sideline of Weweeder Avenue and the southerly sideline of Pochick Avenue;
- Masquetuck Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Pochick Avenue (excluding any portion of Nobadeer and Weweeder Avenues);
- Holly Street between the northerly sideline of Weweeder Avenue and a line 200 feet south and parallel to the southerly sideline of Pochick Avenue;
- Woodbine Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nobadeer Avenue);
- Poplar Street between the northerly sideline of Nonantum Avenue and the southerly sideline of Nobadeer Avenue;

- Laurel Street between the northeasterly sideline of Atlantic Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nonantum and Nobadeer Avenues and between the northerly sideline of Masaquet Street and the southerly sideline of Mequash Avenue;
- School Street between the northeasterly sideline of Atlantic Avenue and the southerly sideline of Weweeder Avenue (excluding any portion of Nobadeer Avenue) and between the northerly sideline of Pochick Avenue and the southerly sideline of Mequash Avenue (excluding any portion of Masaquet Avenue);
- Copeland Street between the northerly sideline of Masaquet Street and the southerly sideline of Mequash Avenue;
- Nobadeer Avenue between the easterly sideline of Surfside Road (formerly known as Myrtle Street) and the westerly sideline of Dunham Street (excluding any portions of Naushon Way (formerly known as Cherry Street) Plum Street, Holly Street, Pequot Street (formerly known as Orange Street), Uncatena Street (formerly known as Wannacomet Street), and Myles Standish Street (formerly known as Shimmo Street);
- Mequash Avenue: Between the easterly sideline of Copeland Street and the westerly sideline of Surfside Road (formerly known as Myrtle Street) and between the easterly sideline of Surfside Road (formerly known as Myrtle Street) and the westerly sideline of Naushon Way (formerly known as Cherry Street);
- Pocomo Avenue between the easterly sideline of Assessor Map 79, Parcel 27 to the easterly sideline of Central Street and from the westerly sideline of Hawthorne Street to the easterly sideline of Adams Street;
- Adams Street between the northern sideline of Weweeder Avenue and the southerly sideline of Pocomo Avenue (excluding any portion of Pochick Avenue); and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 78

(Real Estate Acquisition: Paper Streets in Surfside)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee title or lesser interests in all or any portions of seven (7) unconstructed rights of way in the Surfside area of Nantucket known as Surfside West and identified below, together with any public and private rights of passage, for public ways and/or general municipal purposes:

- Washington, Sumner, and Jackson Streets between the northwesterly sideline of land of the Nantucket Memorial Airport and the southerly sideline of Monohansett Road (excluding any portion of Okorwaw Avenue);
- Webster and Wilson Streets between the northwesterly sideline of land of the Nantucket Memorial Airport and the southerly sideline of Chappomis Avenue;
- Pocomo Avenue between the easterly sideline of Monohansett Road and the northwesterly sideline of land of the Nantucket Memorial Airport; and

- Chappomis Avenue between the southerly sideline of Monohansett Road and the easterly sideline of Webster Street and from the westerly sideline of Wilson Street and the northwesterly sideline of land of the Nantucket Memorial Airport; and

to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 79

(Real Estate Conveyances: Paper Streets, Surfside)

To see if the Town will vote to authorize the Board of Selectmen to convey, sell or otherwise dispose of the fee title or lesser interest in all or any portions of land in the Surfside area of Nantucket known as Surfside West and identified below, subject to Massachusetts General Law c. 30B and guidelines established under the "Nantucket Yard Sales" program:

- Washington, Sumner, and Jackson Streets between the northwesterly sideline of land of the Nantucket Memorial Airport and the southerly sideline of Monohansett Road (excluding any portion of Okorwaw Avenue);
- Webster and Wilson Streets between the northwesterly sideline of land of the Nantucket Memorial Airport and the southerly sideline of Chappomis Avenue;
- Pocomo Avenue between the easterly sideline of Monohansett Road and the northwesterly sideline of land of the Nantucket Memorial Airport; and
- Chappomis Avenue between the southerly sideline of Monohansett Road and the easterly sideline of Webster Street and from the westerly sideline of Wilson Street and the northwesterly sideline of land of the Nantucket Memorial Airport; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 80

(Real Estate Acquisition: Various Parcels, Cisco)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee title or lesser interests in all or any portions of three (3) parcels of land in Cisco, known as Assessor Map 82, Parcels 332, 335, and 369 for general municipal purposes; to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 81

(Real Estate Conveyances: Various Parcels)

To see if the Town will vote to authorize the Board of Selectmen to convey, sell or otherwise dispose of the fee title or lesser interests in all or any portions of six (6) parcels of land known as:

- Assessor Map 80, Parcel 140.1;
- Assessor Map 82, Parcels 332, 335 and 369I;
- Assessor Map 88, Parcel 19; and
- a parcel of land, formerly part of a County roadway known as Milestone Road at its intersection with Polpis Road transferred to the Town by Chapter 138 of the Acts of 2008;

subject to Massachusetts General Law c. 30B and guidelines established under the “Nantucket Yard Sales” program; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 82

(Real Estate Disposition: West Dover Street)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey or otherwise dispose of the fee or lesser interests of all or any portion of the Town-owned property known as Assessors Map 55.4.1, Parcel 188 subject to G.L. c.30B, for the purpose of providing affordable housing to low and moderate income households subject to restrictions and reversions to assure conformance with such purposes; or -any other lawful purpose; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 83

(Real Estate Conveyances: Miller Way; former Nonantum Avenue parcel and West Tristram Avenue)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey, grant or otherwise transfer the fee title, conservation restriction or other lesser interests in all or any portions of the following parcels of land to the Nantucket Islands Land Bank or a governmental body or non-profit entity, whose purpose includes the conservation of open space, for conservation, open space or recreational purposes, subject to G.L. c. 30B:

- Lot B shown on a plan filed at the Nantucket Registry of Deeds as Plan No. 2008-61, containing approximately 73,265 square feet (1.68 acres) of land being a portion of Lot B2 on Certificate of Title Number 3279, sometimes known as Miller Lane;
- Lot X1 containing approximately 14,197 square feet of land on that certain plan containing five (5) sheets and entitled “Phase I Disposition Plan in Nantucket, Mass. of Tristram Avenue, Alliance Lane, Proprietors Road, Assessors Maps 31 & 32,” dated

March 2, 2009, prepared by Bracken Engineering, Inc. and filed with the Nantucket County Registry of Deeds as Plan No. 2009-27;

- A parcel containing approximately 18,400 square feet of land bounded by the easterly sideline of Nonantum Avenue, northerly by the southerly lot line of Assessor Map 88, Parcel 49, the southerly sideline of a portion of former Clifford Street and the southerly lot line of Assessor Map 88, Parcels 50 and 51, the eastern sideline of former Harriet Street (f.k.a Prospect Street) and southerly by the northerly lot line of Assessor Map 88, Parcel 47, the northern sideline of a portion of Clifford Street between former Nonantum Avenue and the Atlantic Ocean and Assessor Map 88, Parcel 48, as shown on the plan on file at the Registry of Deeds as Plan No. 2009-37; and
- A parcel known as Assessor Map 88, Parcel 47 bounded westerly by the center line of former Clifford Street, northerly by the southerly side line of former Nonantum Avenue, easterly by the center line of former Harriet Street (f.k.a. Prospect Street) and southerly by the Atlantic Ocean containing approximately 59,844 square feet (1.37 acres) and shown as lot 8 on the plan on file at the Nantucket County Registry of Deeds as Plan No. 056-K-1; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 84

(Real Estate Acquisition: Gardner Road)

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee title or lesser interests in all or any portions of the unconstructed right of way in the Shimmo area known as Gardner Road bounded by the northeasterly lot line of Parcels 131, 132, 133, 134, 135 and 90, the southeasterly sideline of North Road, the southwesterly lot line of Parcels 85, 86, and 92, and the northwesterly lot line of Parcel 6; all as shown on Assessor Map 43, together with any public and private rights of passage, for public ways and/or general municipal purposes; to see if the Town will vote to appropriate, borrow pursuant to applicable statute or transfer from available funds, a sum of money for such purposes; and, to take any other action as related thereto.

(Board of Selectmen)

ARTICLE 85

(Real Estate Disposition: Gardner Road)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey or otherwise dispose of the fee or lesser interests of all or any portion of the land in the Shimmo area known as Gardner Road bounded by the northeasterly lot line of Parcels 131, 132, 133, 134, 135 and 90, the southeasterly sideline of North Road, the southwesterly lot line of Parcels 85, 86, and 92, and the northwesterly lot line of Parcel 6; all as shown on Assessor Map 43, subject to G.L. c.30B, for the purpose of providing affordable housing to low and moderate income households, subject to restrictions and reversions as may be appropriate to assure

conformance with such purposes, or any other lawful purpose; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 86

(Real Estate Disposition: 42R Sparks Avenue a/k/a Cow Pond Lane)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey or otherwise dispose of the fee or lesser interests of all or any part of that portion of the Town-owned property known as Assessors Map 55, Parcel 603, subject to G.L. c.30B for the purpose of providing affordable housing to low and moderate income households, subject to restrictions and reversions to assure conformance with such purposes; or any other lawful purpose; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 87

(Real Estate Dispositions: Low Beach Road, Monohansett Road, Arkansas Avenue and Nobadeer Avenue)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey or otherwise dispose of the fee or lesser interests of all or any parts of the following Town-owned properties, subject to G.L. c. 30B:

- 24 Low Beach Road known as Assessors Map 74 Parcel 52
- 5 Monohansett Road known as Assessors Map 79 Parcel 150
- 86 Arkansas Avenue known as Assessors Map 59.3 Parcels 143, 144, 191, 192, 193, 194, 198, 199, 225 and 226 and the portion of the way known as North Carolina Avenue (not constructed) shown on the plan entitled "2010 Annual Town Meeting Warrant Article 78, Real Estate Disposition, Madaket" and on file with the Town of Nantucket Planning Office; and
- 4 Nobadeer Avenue, known as Assessors Map 80, Parcel 37; and, to take any other action related thereto.

(Board of Selectmen)

ARTICLE 88

(Real Estate Disposition: Long-term Lease Authorization, 2 Fairgrounds Road)

To see if the Town will vote to authorize the Board of Selectmen to lease for a lease term not to exceed ninety-nine (99) years all or part of the following Town-owned property located at 2 Fairgrounds Road, described as lot 76 on the plan entitled "Land Court Division Plan of Land in Nantucket, MA." Dated February 4, 2009 and prepared by Blackwell and Associates, Inc., for housing purposes, subject to Massachusetts G.L. c.30B; and .to take any other action related thereto.

(Board of Selectmen)

ARTICLE 89

(Real Estate Conveyance: Easements/2 and 4 Fairgrounds Road)

To see if the Town will vote to authorize the Board of Selectmen to grant permanent access and utility easements for the purposes of installing, operating and maintaining certain electric distribution and telecommunication lines and equipment for the purposes of transmitting electricity and intelligence, on, over, through and under land owned by the Town situated at 2 and 4 Fairgrounds Road; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 90

(Real Estate Conveyance: Easement/Harborview Way)

To see if the Town will vote to authorize the Board of Selectmen to grant to National Grid, its parents or affiliates, permanent access and utility easements for the purpose of installing, operating and maintaining certain electric distribution equipment on, over, through and under land owned by the Town situated on the southerly side of Harborview Way, shown as Parcel 42.4.2 9 on Assessor's Map 42; and to take any other action related thereto.

(Board of Selectmen)

ARTICLE 91

(Real Estate Conveyance: Easement/Airport)

To see if the Town will vote to authorize the Airport Commission to convey, grant or otherwise dispose of permanent easements over Town property located off Airport Road, known as Land Court Plan 14342, Lot D-5, and Town Assessor Map 78, Parcel 1 and as shown on the plan entitled "Nantucket Memorial Airport - Electrical Utility Location," dated 3/11/09 and on file with the Town Clerk, for the purposes of transmitting electricity to such property; and to take any other action related thereto.

(Board of Selectmen for Airport Commission)

ARTICLE 92

(Real Estate Conveyance: North Pasture)

To see if the Town will vote to authorize the Board of Selectmen to sell, convey, grant or otherwise dispose of a conservation restriction and easement over a portion located at the westerly portion of a certain parcel of land shown on Nantucket Tax Assessor's Map 78, Parcel 5, located east of the Airport, for the Nantucket Hunting Association's mitigation as required by the Massachusetts Natural Heritage and Endangered Species Program. Said easement area will consist of a minimum of 18 acres within a 27 acre lease area. All as shown as Lot 3 on a

map by Blackwell & Associates Inc dated Sept. 3 2009 with Planning Board file number 7243 and filed herewith at the Office of the Town Clerk; or, to take any other action related thereto.

(Steven Holdgate, et al)

ARTICLE 93

(Real Estate Conveyance: South Pasture)

To see if the Town will vote to authorize the Board of Selectmen to enter into a long term lease for the purpose of the storage of boats and related maritime equipment and for the purpose of a boat maintenance facility, offices, storage and meeting space to support community based nonprofit sailing programs such as offered by Nantucket Community Sailing, Inc., a nonprofit organization, for a period not to exceed 99 years on a parcel of land not exceeding five acres within certain land known as South Pasture, described as Assessor's Map 78, parcel 4, and located off Madequecham Valley Road, or take any other action related thereto.

(Diane L. Brown, et al)

ARTICLE 94

(Appropriation: Stabilization Fund)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of the Stabilization Fund in accordance with chapter 40, s. 5B of the General Laws, from which appropriations may be made by a two-thirds vote of an Annual or Special Town Meeting for any purpose for which a municipality may borrow money or for any other lawful purpose; said sum not to exceed ten percent (10%) of the Fiscal Year 2010 tax levy.

Or, to take any other action related thereto.

(Board of Selectmen)

ARTICLE 95

(Appropriation: Free Cash)

To see what sum the Town will vote to transfer from Free Cash in the treasury to meet the appropriations for the ensuing Fiscal Year and to authorize the Assessors to use in the fixing the tax rate, pass any vote, or take any other action related thereto.

(Board of Selectmen)

To act upon and transact any business relative to the foregoing subjects which may, then and there, come before said meeting.

In addition, you are directed to notify and warn the inhabitants of the Town of Nantucket qualified to vote in Town affairs to go to the Nantucket High School at 10 Surfside Road in said Nantucket, on

***TUESDAY, THE THIRTEENTH DAY OF APRIL, 2010
BETWEEN THE HOURS OF 7:00 AM and 8:00 PM***

for the following purpose:

To cast their votes in the Annual Town Election for the election of candidates for the following offices:

Moderator	One for a term of one year
Town Clerk	One for a term of three years
Selectman	Two for terms of three years
Historic District Commission	Two for terms of three years
Historic District Commission Associate	One for a term of three years
School Committee	One for a term of three years
Nantucket Housing Authority	One for a term of five years
Nantucket Islands Land Bank Commission	One for a term of five years
Planning Board	One for a term of five years
Nantucket Water Commission	One for a term of three years
Siasconset Water Commission	One for a term of three years
Harbor & Shellfish Advisory Board	Three for terms of three years

And, to cast their vote as "YES" or "NO" on the following ballot question:

1. THIS QUESTION IS NON-BINDING

As part of an integrated plan, shall the Town of Nantucket take all necessary actions to reduce human tick-borne diseases, including, but not limited to, pursuing changes to existing hunting regulations in order to significantly increase deer harvesting, as may be approved by the Board of Selectmen?

YES _____

NO _____

Hereof fail not and make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of meeting and election aforesaid.

Given under our hands this 27th day of January in the year Two Thousand Ten.

Michael Kopko, Chairman

Patricia Roggeveen

Brian Chadwick

Allen Reinhard

Rick Atherton

SELECTMEN OF NANTUCKET, MA

Pursuant to Chapter 39, section 10 of the General Laws of the Commonwealth and the Warrant of January 27, 2010, I have notified and warned the inhabitants of the Town of Nantucket qualified to vote in Town affairs to appear at the times and place and for the purposes within mentioned by posting said notification on _____ at the Stop & Shop on Pleasant Street, the Grand Union on Salem Street, the Town and County Building at 16 Broad Street; and upon the Bulletin Boards at the corner of Main and Federal Streets, and Siasconset Square.

Sworn to under pains and penalties of perjury,

Catherine Flanagan Stover, Constable